

**INVESTIGATION OF WHITEWATER  
DEVELOPMENT CORPORATION  
AND RELATED MATTERS**

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Investigation of Whitewater Develop... E THE

**ITIONS**

**SPECIAL COMMITTEE TO INVESTIGATE  
WHITEWATER DEVELOPMENT CORPORATION  
AND RELATED MATTERS**

ADMINISTERED BY THE

**COMMITTEE ON  
BANKING, HOUSING, AND URBAN AFFAIRS  
UNITED STATES SENATE  
ONE HUNDRED FOURTH CONGRESS**

SECOND SESSION

**VOLUME XV**

ON

**THE INQUIRY INTO WHETHER IMPROPER CONDUCT  
OCCURRED WITH RESPECT TO THE OPERATION,  
INVESTMENTS, AND ACTIVITIES OF WHITEWATER  
DEVELOPMENT CORPORATION, MADISON GUARANTY  
SAVINGS & LOAN, CAPITAL MANAGEMENT  
SERVICES, AND RELATED MATTERS**

JANUARY 26 AND 29; FEBRUARY 2, 5, 6, 7, 8, 9, AND 12, 1996

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



FEB 27 1996





**INVESTIGATION OF WHITEWATER  
DEVELOPMENT CORPORATION  
AND RELATED MATTERS**

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**DEPOSITIONS**

BEFORE THE

**SPECIAL COMMITTEE TO INVESTIGATE  
WHITEWATER DEVELOPMENT CORPORATION  
AND RELATED MATTERS**

ADMINISTERED BY THE

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**DEPOSITION OF  
ONIE ELIZABETH (BETSEY) WRIGHT  
IN RE: S. RES. 120**

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**VOLUME I**

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**FRIDAY, JANUARY 26, 1996**

**U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
Washington, DC.**

Deposition of ONIE ELIZABETH (BETSEY) WRIGHT,  
called for examination pursuant to notice of deposition, at 9:40 a.m. in  
Room 534 of the Dirksen Senate Office Building, before BRENDA  
M. SMONSKEY, a Notary Public within and for the District of Co-  
lumbia, when were present:

**ROBERT J. GIUFFRA, JR., Esq.**  
Majority Chief Counsel  
**MARK J. BRENNER, Esq.**  
Majority Assistant Special Counsel  
**LANCE COLE, Esq.**  
Minority Deputy Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

**ALAN M. COHEN, Esq.**  
**PATRICK R. RIZZI, Esq.**  
O'Melveny & Myers  
Citicorp Center  
153 East 53rd Street  
New York, NY 10022-4611  
On behalf of the Deponent.

**ALSO PRESENT: DAVID BOSSIE  
DAVID M. LUNA**



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## P R O C E E D I N G S

MR. GIUFFRA: Good morning, Ms. Wright. My name is Robert Giuffra, chief counsel of the Senate Banking Committee. To my right is Dave Bossie, and further down is Lance Cole, who is a Minority deputy special counsel.

MR. COLE: To my right is David Luna, one of the Minority staff members.

MR. GIUFFRA: This is a deposition that is being conducted pursuant to Senate Resolution 120. Senate Resolution 120 establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, the Arkansas Development Finance Authority and other related matters.

You have been asked to testify in connection with this deposition for possible testimony at a public hearing that the Committee will hold possibly in February and maybe in March, depending on what happens with regard to the

4

extension of our resolution.

The procedures for the deposition today are set forth within Senate Resolution 120. I see you have chosen to be represented by counsel, and if Mr. Cohen would note an appearance for the record.

MR. COHEN: Alan Cohen of O'Melveny & Myers, 153 East 53rd Street, 54th floor, New York, New York 10022, and with me is Pat Rizzi of the same law firm but at a different address, 555 13th Street, Washington, D.C.

MR. GIUFFRA: Now, the procedure for the conduct of the deposition, as I indicated, is set forth in the resolution.

Just a couple things. You will be testifying under oath. I will ask you a series of questions and then Mr. Cole will. We will try to complete the deposition as expeditiously as possible.

One concern I have is you may have a lot of involvement in a lot of the matters that are subjects of the resolution. So it is a little unclear how long this may take and whether we will need another

1 day, but I will try to go as fast as possible. Then  
2 Mr. Cole will get his chance, and then we may go back  
3 again for another round.

4 If at any time today you don't understand a  
5 question, let us know. If you need a break, let us  
6 know. Your counsel is free to object to questions on  
7 the basis of form. If there is an objection based on  
8 relevance or privilege, we can either proceed with  
9 the deposition or we may seek a ruling on the  
10 objection from the Chairman.

11 The court reporter will prepare a record of  
12 the questions and answers. The deposition will be  
13 treated as committee confidential until the hearings,  
14 meaning that it won't be released to the public.

15 Prior to the hearings, you will receive a  
16 letter from the Committee advising you that you can  
17 come to the Senate and review the transcript of your  
18 deposition.

19 If you are called to testify at public  
20 hearings, you will be permitted to have a copy of the  
21 deposition transcript four days in advance of your  
22 testimony, which means we will actually send you a

1 copy.

2 Do you have any questions?

3 MS. WRIGHT: No.

4 MR. GIUFFRA: Mr. Cohen, any questions?

5 MR. COHEN: Only for the record that we  
6 regard this as the equivalent of testimony before the  
7 Committee and have been subpoenaed to testify before  
8 the Committee.

9 If we ever need to argue about whether a  
10 subsequent appearance before the Committee is  
11 required, we will do so, but certainly today we are  
12 here to give you whatever information you want.

13 MR. GIUFFRA: Okay. Just to make sure the  
14 record is clear, the procedure has been that  
15 witnesses come and testify at depositions and then  
16 testify at public hearings. There hasn't been a case  
17 in which anyone has raised that objection.

18 Please swear the witness.

19 Whereupon,

20 BETSEY WRIGHT

21 was called as a witness and, having first been duly  
22 sworn, was examined and testified as follows:

1 MR. GIUFFRA: Ms. Wright, your counsel has  
2 provided to me a copy of a resume which we will mark  
3 as Deposition Exhibit 1.

4 (Wright Exhibit 1 identified.)

5 EXAMINATION

6 BY MR. GIUFFRA:

7 Q Have you reviewed this resume before?

8 A Yes.

9 Q Is this an accurate setting forth of your  
10 background, work history, board memberships and  
11 background matter?

12 A Yes.

13 Q Ms. Wright, I'm going to show you some  
14 documents. Mr. Cohen, we don't identify or mark  
15 documents that the Committee has. We identify them  
16 by Bates numbers because of the problem of attaching  
17 what would be exhibits to the transcript and for  
18 confidentiality reasons.

19 This document bears Bates numbers DKS  
20 028928 and runs through to DKS 029043. These are  
21 Rose Law Firm client billing records. If you could  
22 just take a look at this document.

1 A I'm supposed to read it?

2 Q You can flip through it and see whether you  
3 have ever seen this document before.

4 A I haven't. I have never seen it before.

5 Q So, it would be your testimony -- maybe --  
6 do you want to take another closer look at this just  
7 to be absolutely sure you have never seen it before?

8 MR. COLE: Perhaps it would be helpful to  
9 state the source and a description of the document.

10 MR. COHEN: I think we could probably from  
11 the public media figure that one out.

12 MR. COLE: I assume you probably could. It  
13 is important enough that I didn't want there to be  
14 any misunderstanding.

15 BY MR. GIUFFRA:

16 Q These were client billing records provided  
17 to the Committee on January 5, 1996 by David Kendall,  
18 counsel for the President and Mrs. Clinton.

19 These documents were found in the so-called  
20 book room of the White House residence sometime in  
21 August 1994, and testimony the Committee has received  
22 indicate that at least the computer printout at the



1 top was printed out on February 12, '92.

2 I just wanted to see whether you have ever  
3 seen these documents at any time.

4 A Is there something in here specifically  
5 that you think would ring a bell?

6 Q Why don't I just -- right at the top, we  
7 have a computer run listing, basically the Rose Law  
8 Firm's payment and billing history with regard to  
9 Madison Guaranty Savings & Loan.

10 Then there are attached to this document a  
11 series of Rose Law Firm bills to Madison Guaranty  
12 with regard to services the Rose Law Firm provided to  
13 Madison Guaranty between 1985 and 1986.

14 Also included on these bills are some  
15 handwritten notations on page 028933. There is a  
16 notation which we have learned represents handwriting  
17 of Vincent Foster, which says "HRC I believe there  
18 was a subsequent bill."

19 Then there are what we know are billing  
20 memoranda of the Rose Law Firm, and it goes through  
21 the entire representation. These bills reflect  
22 largely the representation of Madison by Rose in '85

---

10

1 and '86.

2 MR. COHEN: Your question, has Ms. Wright  
3 ever seen these before at any time?

4 MR. GIUFFRA: At any time.

5 THE WITNESS: No.

6 BY MR. GIUFFRA:

7 Q Ms. Wright, am I correct that you were  
8 involved in the 1992 Clinton for President campaign?

9 A That's correct.

10 Q And what was your role in connection with  
11 that campaign?

12 A I was the deputy chair.

13 Q Of the entire campaign?

14 A Correct.

15 Q Did you have any role or involvement with  
16 regard to what, just for the sake of speeding this  
17 up, we will describe as Whitewater-Madison matters?

18 A Yes.

19 Q What role did you have during the 1992  
20 campaign with regard to Whitewater-Madison matters?

21 A Compiling information to respond to press  
22 inquiries.

1 Q In connection with compiling information to  
2 respond to press inquiries, did you seek to obtain  
3 documentation with regard to either Madison Guaranty  
4 or Whitewater?

5 A No.

6 Q Did other personnel of the campaign seek to  
7 obtain documentation with regard to either Madison  
8 Guaranty or Whitewater?

9 A Not while I was there.

10 MR. COHEN: Let me help you. Let me ask a  
11 question, because none of this is particularly  
12 surprising to anyone. So let me help streamline it.

13 Ms. Wright, would you tell Mr. Giuffra the  
14 date you came to the campaign. It may be helpful in  
15 terms of him placing events in context.

16 THE WITNESS: I came the last week of  
17 March.

18 BY MR. GIUFFRA:

19 Q And you worked on the campaign through the  
20 end, November?

21 A Correct.

22 Q Did you have any role with regard to

---

1 anything having to do with Whitewater or Madison  
2 between January 1, 1992 and when you arrived at the  
3 campaign at the end of March 1992?

4 A I did not.

5 Q Did you speak to anyone between January 1,  
6 1992 and when you arrived at the campaign at the end  
7 of March 1992 about Madison or Whitewater?

8 A I did not.

9 Q You -- no one, for example, asked you any  
10 questions trying to ascertain information with regard  
11 to what had happened during the 1980s with regard to  
12 either Madison or Whitewater?

13 A They didn't.

14 Q When I'm describing Madison-Whitewater, I'm  
15 trying to describe it in the broad sense as set forth  
16 in the resolution. I can go through each of the  
17 subjects, if you want.

18 So no one asked you any questions about  
19 Madison or Whitewater in that three-month period?

20 A No.

21 Q Do you have any knowledge with regard to  
22 anything having to do with the chain of custody of

1 the document bearing Bates number DKSJ 28928 through  
2 DKSJ 29043?

3 A None.

4 Q Have you ever discussed any Rose Law Firm  
5 billing records relating to Madison Guaranty with  
6 anyone at any time?

7 MR. COHEN: Other than your lawyer.

8 THE WITNESS: No.

9 BY MR. GIUFFRÀ:

10 Q Between December 1980 and January 1990, you  
11 were, I would imagine, alternatively chief of staff  
12 or campaign manager for Governor Bill Clinton;  
13 correct?

14 A That's correct.

15 Q Did there come a time in 1985 when you  
16 learned that the Rose Law Firm had been retained to  
17 represent Madison Guaranty?

18 A No.

19 Q When did you first learn that the Rose Law  
20 Firm had provided some legal services to Madison  
21 Guaranty?

22 A I don't know.

1 Q Did you learn that the Rose Law Firm had  
2 provided legal services to Madison Guaranty prior to  
3 the 1992 presidential campaign?

4 A I don't recall knowing about it before  
5 then. That's my conscious memory of it. But it  
6 isn't out of the realm of possibility that it may  
7 have gone past me, information at some other time,  
8 but not anything I took particular note of.

9 Q In what connection do you think you might  
10 have learned of the fact that the Rose Law Firm had  
11 provided some legal services to Madison Guaranty  
12 prior to the 1992 campaign?

13 A I don't know. I don't know that I did.

14 Q You just think it is possible --

15 A My only conscious memory of the fact was in  
16 the '92 campaign.

17 Q Okay. What do you recall learning during  
18 the 1992 presidential campaign about the Rose Law  
19 Firm's representation of Madison Guaranty during the  
20 1980s?

21 A What do I recall learning about it?

22 Q Yes.



1 A More than I ever wanted to know or  
2 remember. The peg points for my knowledge and  
3 understanding were to respond to press questions.

4 So, it was in compiling the information to  
5 respond accurately to press questions or in the  
6 preparation of the debate books for the campaign. I  
7 think you have all of those, or the kind of press  
8 questions we got.

9 Q Were Q and As about Whitewater or Madison  
10 included in Governor Clinton's briefing materials for  
11 presidential debates?

12 A I had some in there, not a whole lot. My  
13 responsibilities entailed information about the  
14 Arkansas record and about attacks from the  
15 opposition. That was one of many items.

16 Q Maybe it would be useful -- what exactly  
17 were your areas of responsibility as deputy chair of  
18 the Clinton-Gore campaign between March and November  
19 1992?

20 A Primarily coordination of information in  
21 the Arkansas record in defense of the Clintons in  
22 attacks.

1 Q Did you have any persons who assisted you  
2 in connection with the responsibilities that you had?

3 A Yes.

4 Q Who assisted you?

5 A It depended on what the particular area of  
6 inquiry and focus was.

7 Q With regard to Whitewater, who assisted  
8 you?

9 A It depended on what the particular question  
10 or focus was.

11 Q Why don't you just give us the names of all  
12 the people who would have worked with you just in  
13 relation to the Clintons' Whitewater investment and  
14 then we will go from there.

15 A On the Whitewater investment?

16 Q Yes.

17 A On the investment itself, I don't know that  
18 I needed any help because for years I had been  
19 including it on the draft disclosure records of the  
20 governor's.

21 Q You had been listing the fact that the  
22 Governor had an investment in Whitewater in the



1 annual disclosure that he would have to file?

2 A Yes.

3 Q Who normally prepared that disclosure form?

4 A His secretary and I.

5 Q Who was his secretary?

6 A Linda Dibson.

7 Q Were you the person with primary  
8 responsibility for filing that disclosure form?

9 A For preparing it for his signature.

10 Q Did you have any role in preparing Governor  
11 Clinton's disclosure form in connection with the 1992  
12 presidential campaign?

13 A Tangential only. I had no responsibility  
14 for it.

15 Q What was your tangential role?

16 A I seem to recall that it had already been  
17 filed by the time I joined the campaign -- I don't  
18 recall -- and that there may have been subsequent  
19 amendments, and I may have been asked whether I had  
20 information about subsequent amendments. I have no  
21 recollection of what they were at this point.

22 Q Again, just for purposes -- when you say

1 you have no recollection of something, that means you  
2 have absolutely no recollection of the event?

3 A That's correct. I remember having  
4 conversations with people about information for  
5 amended disclosure forms. I remember checking to  
6 make certain that the campaign had all of the prior  
7 disclosure forms. That was part of the information I  
8 gathered. That's what I mean by "tangential."

9 Q It is your testimony that you were not  
10 involved in preparing the initial disclosure that  
11 Governor Clinton would have filed with the Federal  
12 Election Commission in the fall of 1991 when he  
13 announced his candidacy for President?

14 A Oh, I was not.

15 Q Do you know who was involved in preparing  
16 that disclosure?

17 A I do not.

18 Q Do you know if Mr. Lindsey was involved in  
19 that?

20 A I have no knowledge of that.

21 Q Based on your knowledge of the campaign  
22 responsibilities, who do you think would have been

1 the person responsible?

2 A I had no knowledge of how the campaign was  
3 operating at that time.

4 Q And it is your testimony that some time in  
5 the early part of 1992, there was an amendment to the  
6 disclosure form?

7 A I think so.

8 Q And do you recall whether that amendment  
9 had to do with including Whitewater Development  
10 Corporation as -- including Whitewater Development  
11 Corporation within the disclosure, the fact of this  
12 investment?

13 A No, I don't remember.

14 Q So, you don't --

15 A I don't remember what were the issues on  
16 the disclosure.

17 Q You don't recall whether Whitewater was  
18 listed as a liability of the Clintons in the 1992  
19 presidential disclosure?

20 A I don't. No, I don't.

21 Q Do you recall any conversations with anyone  
22 about this amendment to the 1992 -- strike that.

1 Do you recall having any discussions with  
2 anyone about amending the President's 1992 campaign  
3 disclosure form?

4 A I do remember. I don't remember with whom  
5 or what the substance of the amendment discussions  
6 were.

7 Q Going back to your role in handling  
8 Arkansas issues and I guess defense of opposition  
9 attacks --

10 A Defense from opposition attacks.

11 Q Did you work with a man named Jack  
12 Palladino?

13 A Yes.

14 Q Who is Jack Palladino?

15 A He is an attorney in San Francisco.

16 Q Who made the decision to retain  
17 Mr. Palladino?

18 A I don't know that.

19 Q What were Mr. Palladino's areas of  
20 responsibilities in connection with the 1992 --

21 MR. COLE: Mr. Giuffra, this is not an  
22 objection, but before we proceed further along this

1 line of questioning, I would like to note that we  
2 need to stay within the subject matters set out in  
3 Senate Resolution 120.

4 To the extent Mr. Palladino had  
5 responsibilities which are outside the scope of 120,  
6 I think it is improper to inquire into those areas in  
7 this deposition.

8 MR. GIUFFRA: I am just getting general  
9 responsibilities, not going too far outside the scope  
10 of the resolution.

11 What was the pending question?

12 MR. COHEN: What were his  
13 responsibilities.

14 BY MR. GIUFFRA:

15 Q What were Mr. Palladino's areas of  
16 responsibility during the campaign?

17 A When I had more things to pull facts  
18 together and get information on than I could handle,  
19 I sometimes asked him to pursue information gathering  
20 for me.

21 Q And did he perform any information  
22 gathering with regard to Whitewater Development

---

22

1 Corporation?

2 A None.

3 Q Did he perform any information gathering  
4 with regard to Madison Guaranty?

5 A None.

6 Q Any information gathering with regard to  
7 Judge David Hale?

8 A None.

9 Q Any information gathering by Mr. Palladino  
10 with regard to the Arkansas Development Finance  
11 Authority?

12 A None.

13 Q Am I correct that Mr. Palladino's  
14 activities -- did they relate solely to what has been  
15 reported in the media anyway, to allegations  
16 involving the President's personal life?

17 MR. COHEN: Why don't I object to that.  
18 Rather than get into what else it was, she has told  
19 you it doesn't have anything to do with any of the  
20 subject matter of your Resolution 120.

21 MR. GIUFFRA: I don't think it is going too  
22 far beyond the scope, if he -- I'm just trying to

1 find out if his areas of responsibility --

2 BY MR. GIUFFRA:

3 Q Did his areas of responsibility have  
4 anything to do with the Clintons' finances?

5 A No.

6 Q So it solely related to things relating to  
7 the Governor's personal life?

8 A No. Most of the things that he looked into  
9 had absolutely nothing to do with the Governor.

10 Q Allegations about the Governor's personal  
11 life.

12 A Allegations, but they were complete  
13 falsehoods, as Mr. Bossie knows well.

14 Q Did you work with Mr. Blair in connection  
15 with the 1992 presidential campaign?

16 A I occasionally did.

17 Q Did Mr. Blair have any role with  
18 Whitewater-Madison matters?

19 A He did occasionally, yes.

20 Q What do you recall was Mr. Blair's  
21 responsibilities with regard to --

22 A I don't know.

1 Q Do you recall any conversations you had  
2 with Mr. Blair during the 1992 campaign?

3 A None specifically.

4 Q Do you have any understanding whether  
5 Mr. Blair ever spoke to a man named Sam Heuer during  
6 the 1992 presidential campaign?

7 A I didn't know that. I wasn't there  
8 contemporaneously with those. I learned subsequently  
9 that there had been conversations. I don't think --

10 I don't think I have had a conversation  
11 with Mr. Blair about a conversation he had with  
12 Mr. Heuer. Although it would not be out of the realm  
13 of possibility that it was --

14 Q Do you know Mr. Heuer?

15 A I certainly know who he is. I can't  
16 remember whether I have met him.

17 Q Do you recall ever speaking to Mr. Heuer  
18 during the 1992 campaign?

19 A I didn't.

20 Q Do you know Jim McDougal?

21 A I have met him.

22 Q During the 1992 presidential campaign, did



1 you ever speak with Mr. McDougal?

2 A No.

3 Q Do you know whether anyone who might be  
4 described as an agent, representative, employee of  
5 the 1992 presidential campaign, including but not  
6 limited to Mr. Blair, spoke to Mr. McDougal during  
7 the campaign?

8 A It is my understanding that they did.

9 Q Do you know who would have been the persons  
10 who would have spoken to Mr. McDougal during the  
11 campaign?

12 A No.

13 Q Do you know whether Mr. Blair spoke to  
14 Mr. McDougal?

15 A I don't know.

16 Q Do you know whether Mr. Lindsey spoke to  
17 Mr. McDougal?

18 A I don't know.

19 Q During the 1992 campaign, did you work with  
20 Loretta Lynch?

21 A I did.

22 Q What was Loretta Lynch's responsibilities

1 during the campaign? What were her responsibilities?

2 A She helped compile information as needed on  
3 subjects.

4 Q What were the subjects that Ms. Lynch  
5 gathered information during the campaign?

6 A Oh, I couldn't remember that. Obviously I  
7 didn't go back and review anything about all the  
8 stuff that came up during the campaign.

9 Q Ms. Wright, in the last month, have you  
10 spoken to President Clinton at all?

11 MR. COHEN: You mean regarding these  
12 topics?

13 MR. GIUFFRA: No. Just anything.

14 MR. COHEN: What would the relevance under  
15 the resolution be to that?

16 MR. GIUFFRA: The fact of a communication  
17 is not getting beyond the subject matter of the  
18 resolution. I'm not asking about the substance, just  
19 the fact of a communication.

20 THE WITNESS: No.

21 BY MR. GIUFFRA:

22 Q Have you spoken to Mrs. Clinton within the

1 last month?

2 A Yes.

3 Q And when did you speak to Mrs. Clinton?

4 A Two or three weeks ago.

5 Q Did you speak to Mrs. Clinton before the  
6 1st of the year or after the 1st of the year?

7 A After.

8 Q Did you speak to Mrs. Clinton when these  
9 billing records -- strike that.

10 Did you speak to Mrs. Clinton about  
11 anything having to do with Madison or Whitewater?

12 A No.

13 Q Have you spoken to -- it would be your  
14 testimony you didn't speak to her at all about the  
15 discovery of these billing records or anything having  
16 to do with Whitewater or Madison?

17 A Substantively, no. I had sent her a note  
18 just telling her I was sorry about all the new  
19 developments and the responses that she was now going  
20 to have to go through in dealing with it and wished  
21 her well. She just called to thank me for the note.  
22 There was no substantive reference.

---

1 Q Did she say anything to you about the  
2 discovery of these billing records?

3 A No.

4 Q Did she indicate to you she was surprised  
5 that the billing records were discovered?

6 A We didn't discuss it.

7 Q Have you spoken to anyone presently  
8 employed at the White House about the discovery of  
9 these billing records?

10 A I don't think so.

11 Q So, you haven't spoken to Mr. Lindsey about  
12 the discovery?

13 A No.

14 Q Do you know Carolyn Huber?

15 A I do.

16 Q You haven't spoken to Ms. Huber about the  
17 discovery?

18 A No.

19 Q Do you know Capricia Marshall?

20 A I do.

21 Q You haven't spoken to Ms. Marshall about  
22 the discovery of these billing records?

1 A I have not.

2 Q Have you been to the third floor of the  
3 White House?

4 A I have.

5 Q Have you been in the so-called book room?

6 A I have not.

7 Q Have you been in Mrs. Clinton's office on  
8 the third floor of the White House?

9 A No.

10 Q Have you been to the solarium on the third  
11 floor of the White House?

12 A No.

13 Q Have you been to the gym on the third floor  
14 of the White House?

15 A No. Let me just add, I have no idea what  
16 the names of the rooms are. I haven't been to any  
17 rooms that sound like what you just said.

18 MR. COHEN: You know what the gym would  
19 look like.

20 THE WITNESS: I would know a gym. I know I  
21 haven't ever been to any room that you walk through  
22 to go to a gym because I have never been to the gym.

---

1 Is the solarium a room that is glass?

2 BY MR. GIUFFRA:

3 Q Yes.

4 A No.

5 Q Did you work with Mrs. Blair during the  
6 1992 campaign?

7 A I did.

8 Q Was she involved with regard to Whitewater  
9 or Madison issues?

10 A Mr. Giuffra, because of the press interest  
11 in the subject, there was hardly anybody that didn't  
12 touch the receipt of press questions or the  
13 preparation of the answers back or the processing of  
14 stuff that came in on the subject of Whitewater and  
15 Madison.

16 Q So, all of the senior campaign officials  
17 would have been involved in Madison-Whitewater  
18 response work?

19 MR. COLE: When we use the shorthand  
20 "Whitewater-Madison matters" which you made  
21 reference to earlier in the deposition, does that  
22 encompass all of the matters set forth in Resolution



1 120 or matters related to Whitewater and Madison  
2 Guaranty Savings & Loan?

3 There are things in the resolution that I  
4 think most people would regard as having little  
5 connection to Whitewater and Madison such as ADFA  
6 bond offerings involving Lasater & Company. I want  
7 to be clear for the record what is encompassed when  
8 we use the shorthand "Whitewater-Madison matters."

9 MR. GIUFFRA: If you have any objection to  
10 this, let me know. I would like to have it encompass  
11 everything that is in the resolution with regard to  
12 these general questions.

13 BY MR. GIUFFRA:

14 Q Are you familiar with the resolution?

15 A I have read the resolution. I am incapable  
16 of making Madison and Whitewater broaden to other  
17 subjects. I can't do it. They are too clear in my  
18 head.

19 Q We will just go with Madison and  
20 Whitewater --

21 A Refer to Madison and Whitewater.

22 Q Whitewater meaning the investment, and

1 Madison being Madison Guaranty, which was run by Jim  
2 McDougal. And the other subjects we will deal with  
3 separately.

4 MR. COLE: So, Ms. Wright, when you  
5 responded to his questions, you haven't encompassed  
6 in your answer everything else in the resolution?

7 THE WITNESS: I can't. I am just incapable  
8 of it.

9 MR. COLE: I was afraid there might be some  
10 uncertainty as to that.

11 BY MR. GIUFFRA:

12 Q You indicated that the majority of the  
13 senior staff of the campaign would have worked on  
14 Madison-Whitewater response work.

15 A I don't know about outside of my area.

16 Q Who was involved in your area?

17 A Well, the majority of the senior members of  
18 the campaign were not in my area.

19 Q Who was in your area?

20 A Diane was in my area, of the people you  
21 asked me about, and Loretta was.

22 Q They both reported to you?

- 1 A Correct.
- 2 Q Mr. Palladino, he was not involved in the  
3 Madison-Whitewater work but involved in your area?
- 4 A Correct.
- 5 Q Who else was involved in your area?
- 6 A I had an awful lot of volunteers.
- 7 Q Were there any other paid campaign workers  
8 who were involved in your area?
- 9 A You know, I don't recall. Mrs. Blair was  
10 not paid.
- 11 Q Did you work with Mr. Hubbell during the  
12 campaign?
- 13 A From time to time I did, yes.
- 14 Q Did you work with Mr. Hubbell on matters  
15 relating to Madison, Whitewater or the Rose Law Firm?
- 16 A I probably would have checked any answers I  
17 prepared relating to the Rose Law Firm with him for  
18 accuracy.
- 19 Q Do you recall preparing answers relating to  
20 the Rose Law Firm during the 1992 campaign?
- 21 A Certainly.
- 22 Q Do you recall what the inquiries were about

- 1 in connection with the Rose Law Firm during the 1992  
2 campaign?
- 3 A They primarily had to do with  
4 Mrs. Clinton's work, with the firm's work on  
5 state-related matters.
- 6 Q What was your understanding during the  
7 1980s of the extent to which Mrs. Clinton represented  
8 private clients before Arkansas state departments,  
9 agencies or instrumentalities?
- 10 A Practically nonexistent.
- 11 MR. COHEN: That's your knowledge that is  
12 practically nonexistent?
- 13 THE WITNESS: Yes.
- 14 BY MR. GIUFFRA:
- 15 Q Why do you say "practically nonexistent"?
- 16 A The Clintons were exceedingly cautious  
17 about even the appearance of conflict of interest. I  
18 think it is practically nonexistent.
- 19 Now, having said that, my knowledge of --  
20 Mrs. Clinton and I didn't discuss who her clients  
21 were or her private law practice. We didn't discuss  
22 that.

1 Q Did you ever discuss with anyone any  
2 concerns with regard to Mrs. Clinton representing  
3 private clients before Arkansas state departments,  
4 agencies or instrumentalities?

5 A No.

6 Q Was that ever a subject that you discussed  
7 with the Governor, for example?

8 A No.

9 Q Never discussed it with Mrs. Clinton?

10 A No.

11 Q When you say that your understanding that  
12 the extent of her work, legal work for private  
13 clients before Arkansas departments, agencies or  
14 instrumentalities was practically nonexistent --

15 MR. COHEN: It was her knowledge of it that  
16 was practically nonexistent, as opposed to the work.

17 BY MR. GIUFFRA:

18 Q What work do you know that Mrs. Clinton --  
19 to your knowledge, what work did Mrs. Clinton perform  
20 on behalf of private clients before Arkansas state  
21 departments, agencies or instrumentalities?

22 A The only one I'm aware of is the

1 interaction with the securities commissioner.

2 Q And this would be Beverly Bassett Schaffer?

3 A Correct.

4 Q That would have been in 1985?

5 A I don't know the date.

6 Q Now, were you aware of it at the time?

7 A I was not.

8 Q So, you learned of Mrs. Clinton's  
9 interaction with the securities commissioner during  
10 the 1992 campaign?

11 A Correct.

12 Q When it came up as a press question;  
13 correct?

14 A Correct.

15 Q Did you ever speak to Mrs. Clinton about  
16 the extent of her representation of Madison Guaranty  
17 before the Arkansas Securities Commission?

18 A I did.

19 Q What did Mrs. Clinton tell you about the  
20 extent of her representation -- strike that.

21 In preparing these press inquiries in  
22 response -- strike that.



1 In preparing press inquiries relating to  
2 Madison Guaranty, Whitewater and the Rose Law Firm,  
3 you spoke to Mrs. Clinton; correct?

4 A I spoke to her on anything that involved  
5 her.

6 Q And how frequently did you normally speak  
7 to Mrs. Clinton during the campaign?

8 A I don't know how to answer that.

9 Q Was she someone you spoke to several times  
10 a week? Every day? Once a month?

11 A It was according to what the flow of --

12 Q So as much as every day and maybe as little  
13 as once a week?

14 A Probably. I just --

15 Q Did you have a number of conversations with  
16 Mrs. Clinton about Whitewater, Madison and Rose Law  
17 Firm-related matters?

18 MR. COLE: Do we have a time frame for  
19 this?

20 MR. GIUFFRA: During the 1992 campaign.

21 MR. COLE: Just generally during the  
22 campaign?

1 MR. GIUFFRA: Yes.

2 THE WITNESS: We had a number of press  
3 questions regarding this. I spoke to her whenever we  
4 had those. It was any kind of a new angle or new  
5 question that I needed to get verification of  
6 accuracy on.

7 BY MR. GIUFFRA:

8 Q What did Mrs. Clinton tell you about her  
9 representation of Madison Guaranty -- strike that.

10 What did she tell you during the 1992  
11 campaign about the extent of her representation of  
12 Madison during 1985 and '86?

13 A I don't remember specifically. I would  
14 have to have go back to the press questions and  
15 answers.

16 Q Did she say anything to you about the  
17 extent to which she performed legal services for  
18 Madison?

19 A I'm certain she did, because some of our  
20 press questions were about that.

21 Q In preparing responses to press inquiries,  
22 you would have reviewed those responses with



1 Mrs. Clinton before the campaign issued the response?

2 A Generally, yes.

3 Q In preparing responses to press inquiries,  
4 was it the policy of the Clinton campaign to be  
5 accurate?

6 A I can't speak for the Clinton campaign. I  
7 can speak for my section. I know nothing about  
8 hardly the rest of it.

9 Q In responding to press inquiries, was it  
10 the practice within your section to be accurate?

11 A Absolutely.

12 Q Do you know Beverly Bassett Schaffer?

13 A I do.

14 Q In what context do you know Beverly Bassett  
15 Schaffer?

16 A In what context do I know her?

17 Q How do you know Beverly Bassett Schaffer?  
18 We can use the legal question or the normal  
19 person's questioning.

20 MR. COHEN: Stick with the normal person's  
21 questioning.

22 THE WITNESS: I don't know at what point I

---

1 shifted from knowing of her to knowing her  
2 personally. But her family were very major  
3 supporters of Governor Clinton's.

4 BY MR. GIUFFRA:

5 Q This would be Woody Bassett, her brother?

6 A And her father.

7 Q What do you know about her appointment as  
8 Arkansas securities commissioner?

9 A I know that she is who I wanted appointed,  
10 and I succeeded, and I was so proud that we had the  
11 first ever female securities commissioner.

12 Q You were one of her strong supporters for  
13 that appointment; am I right?

14 A Absolutely.

15 Q Was that a matter that you -- strike that.  
16 Was the process of her appointment  
17 something that was your responsibility as chief of  
18 staff to the Governor?

19 A I oversaw all appointments, particularly  
20 agencies I would be involved with, ones to head  
21 agencies or departments.

22 Q If someone wanted to make a recommendation

1 with regard to an appointment, they would have made  
2 the recommendation to you?

3 A No. We had staff who collected  
4 recommendations and handled the processing,  
5 acknowledgments.

6 Q Would you have reviewed all the  
7 recommendations?

8 A I always did, yes.

9 Q So that -- strike that.

10 If someone who was a friend of the governor  
11 or supporter of the governor made a recommendation,  
12 that recommendation would have crossed your desk?

13 A Yes, it would have.

14 Q In connection with appointments to the  
15 Arkansas Securities Commission, and not just the head  
16 of the commission itself -- I believe it is a  
17 commission, am I right, with members? There is a  
18 commissioner and then there is an Arkansas savings  
19 and loan board?

20 A And a cemetery board.

21 Q And a bank board?

22 A That is not connected to the commission.

---

1 Q There is also an Arkansas banking committee  
2 board?

3 A Yes.

4 Q They are separate departments --

5 A The securities commissioner is not related  
6 only to the savings and loan. They also have  
7 cemeteries and funeral homes. I forget what all they  
8 had. That was only one small part of it.

9 Q But there is an S&L board?

10 A That's correct.

11 Q There is a bank board under the banking  
12 department; correct?

13 A That's correct.

14 Q The difference is the bank board handles  
15 commercial banks and the S&L board handles S&L?

16 A Yes, state chartered, both state  
17 chartered.

18 Q Madison Guaranty was a state chartered S&L?

19 A I believe that's true.

20 Q Do you have any knowledge as to whether --  
21 during the 19 -- strike that.

22 During the early 1980s, how would you

1 characterize the nature of the relationship between  
2 Jim McDougal and Governor Clinton?

3 A They were friends. They were not close  
4 personal friends.

5 Q And Jim McDougal, did he ever work for the  
6 Governor?

7 A He did.

8 Q Was that in the first term?

9 A That's correct.

10 Q What was his position in the first term?

11 A I don't know that. I was not there then.

12 I seem to recall that it was in an economic  
13 development --

14 Q Assistant to the Governor for economic  
15 development, perhaps?

16 A I don't know. I wasn't there.

17 Q Then he left after the Governor lost in --  
18 did he lose in '80?

19 A Yes.

20 Q Between 1982 and 1986, and by '86, I mean  
21 the end of '86, and beginning of '82, did you have  
22 contact with Jim McDougal?

1 A Some.

2 Q What was the nature of your contacts with  
3 Jim McDougal between January 1, 1982 and December  
4 year end of '86?

5 A I think I ran into him at a Democratic  
6 party function when he was running for the Congress.  
7 It was just running into him.

8 Q Did he ever visit the Governor's office?

9 A I was trying to remember whether he ever  
10 did or not. It wouldn't surprise me. I tried very  
11 hard to make people who had been on Bill's first  
12 staff feel very welcome to come back and visit that  
13 office. I just don't recall which ones did and  
14 didn't.

15 Q Do you know whether he ever visited the  
16 Governor's mansion?

17 A I'm sure he did. We always invited former  
18 staff to Christmas parties, and I nearly always tried  
19 to rotate through them on other special events.

20 Q But you don't know any particular instances  
21 in which Mr. McDougal would have visited the  
22 Governor's mansion?

- 1 A I don't recall, but I'm sure he did.
- 2 Q Do you know whether Mr. McDougal ever met  
3 with the Governor between '82 and '86?
- 4 A I believe he did, yes.
- 5 Q Do you recall any of those contacts?
- 6 A I know from reviewing the records that I'm  
7 reminded about one meeting with him regarding septic  
8 tanks and the Health Department. That's the only  
9 substantive context of a meeting.
- 10 I do know that Bill dropped by to see him  
11 sometimes when he was jogging by Madison Guaranty. I  
12 know one time I saw him was when I went to the  
13 fundraiser at Madison Guaranty.
- 14 Q That would be the '85 fundraiser?
- 15 A Correct. Believe me, that's the only one,  
16 the only fundraiser Jim McDougal ever did for Bill  
17 Clinton.
- 18 Q This was the fundraiser held at the main  
19 Madison branch office?
- 20 A That's correct.
- 21 Q Where was that located?
- 22 A On Main Street.
- 

- 1 Q How far was that from the Governor's  
2 mansion, if you can give us an approximation?
- 3 A I don't know. I never walked it.
- 4 Q A half a mile?
- 5 A It is probably not even a mile.
- 6 Q It is easy jogging distance?
- 7 A Oh, absolutely.
- 8 Q Did Jim McDougal ever correspond with the  
9 Governor or the Governor's office between '82 and  
10 '86?
- 11 A I can't answer that with certainty, but it  
12 wouldn't surprise me if he did.
- 13 Q Do you know whether he ever made any  
14 recommendations?
- 15 A I do know that now, from reconstruction,  
16 yes.
- 17 Q This would be recommendations to Arkansas  
18 boards or for positions?
- 19 A I'm aware of two recommendations.
- 20 Q What are the two recommendations you are  
21 aware of that Mr. McDougal made?
- 22 A I am aware that he made a phone call to



1 recommend Beverly for the securities commissioner,  
2 and I'm aware that he recommended somebody for  
3 savings and loan board.

4 Q That would be Mr. Latham?

5 A I believe that's correct.

6 Q Who was the president and CEO of Madison  
7 Guaranty; is that correct?

8 A I believe that's correct.

9 Q And your knowledge of those -- do you  
10 recall anything more about those recommendations that  
11 Mr. McDougal made -- strike that.

12 Do you recall anything more about -- strike  
13 that.

14 What do you recall about Mr. McDougal's  
15 recommendation of Ms. Schaffer to be securities  
16 commissioner?

17 A That it was irrelevant and hardly  
18 noteworthy at the time because that's the one I  
19 wanted. It didn't have anything to do with Jim  
20 McDougal.

21 Q But you do recall him recommending  
22 Ms. Schaffer --

1 A No, I don't. I took no note of it. I do  
2 know from the reconstruction of the files that there  
3 is a phone message from him in there saying that, and  
4 it had to have gone past me. It was irrelevant. It  
5 was not noteworthy.

6 Q But you don't dispute that he recommended  
7 Ms. Schaffer -- I mean Ms. Bassett?

8 A It appears to me that he did.

9 Q From looking at the records. But you have  
10 no recollection of the recommendation?

11 A It was an irrelevant recommendation.

12 Q You say it is irrelevant because you wanted  
13 Ms. Bassett to get the job?

14 A You bet. I was so thrilled with what we  
15 were about to do.

16 Q You have a very clear recollection of her  
17 appointment?

18 A You bet. Any time we broke a barrier by  
19 putting the first woman into a position, and here was  
20 a very bright attorney who was very smart, got high  
21 marks from everybody that we talked to about her,  
22 came from a family of long-time friends of Bill

1 Clinton's, and she was going to be securities  
2 commissioner, and I remember it very distinctly. I  
3 could take you through some of the other women I'm  
4 real proud of too, if you want me to.

5 Q Did you ever discuss the appointment of  
6 Ms. Schaffer with the Governor?

7 A Of course. He makes the appointments.

8 Q Were there any other candidates for  
9 securities commissioner?

10 A Not really. There may have been. There  
11 always were, but not -- she was the inside tracker.

12 Q Sort of a unanimous decision?

13 A Yes. There may have been other inquiries.  
14 There always were for paying positions in government,  
15 other requests for consideration. But I honestly  
16 don't believe anybody else was under serious  
17 consideration.

18 Q What is the basis for your belief that  
19 Mr. McDougal might have recommended someone for the  
20 bank board? Again documents?

21 A Correct.

22 Q You don't recall any conversations about

1 Mr. McDougal's recommendation?

2 A No.

3 Q Let's go back to the '92 campaign. You  
4 maintained a close friendship with Ms. Bassett from  
5 her appointment -- strike that.

6 A I don't have a close friendship with  
7 Ms. Bassett.

8 Q You met Ms. Bassett in connection with her  
9 appointment in '84?

10 A No. I think I met her before that.

11 Q She was appointed in '84?

12 A I don't remember.

13 Q I think it would be '85, actually.

14 A I think it may have been sooner.

15 Q January '85, I think.

16 A January '85?

17 Q Yes.

18 A Mr. Thalheimer stayed that long? Because I  
19 remember when he came in and told me he was  
20 resigning.

21 Q There may have been a vacancy for a while.

22 MR. COHEN: Whatever the date was, we will

1 agree with you. Somebody will tie it down with  
2 documents or the rest.

3 BY MR. GIUFFRA:

4 Q From her taking the position of securities  
5 commissioner up to the campaign '92, you had some  
6 acquaintanceship with Ms. Bassett; correct?

7 A I did.

8 Q What was the nature of your relationship  
9 with Ms. Bassett during that period?

10 A She was the head of one of our agencies.

11 Q For most of that time up through '91, I  
12 believe.

13 A Well, during the time I was there. I had  
14 left by the time she left.

15 Q Did you used to speak with -- strike that.

16 While you were chief of staff to the  
17 Governor, did you have occasion to speak to  
18 Ms. Bassett about official business?

19 A I believe we usually included her in  
20 cabinet meetings, and I might have sometimes if Sam  
21 wasn't around. Sam was generally her liaison. And  
22 particularly if I had any more of those funeral home

1 directors coming in who didn't feel like they were  
2 getting proper attention, I would ask her to meet  
3 with them and make them feel like they were being  
4 responded to.

5 Q This would be Mr. Sam Bratton?

6 A Correct.

7 Q What was his position?

8 A He was general counsel and a liaison to a  
9 number of boards -- to a number of departments,  
10 primarily what I called the business-related ones,  
11 the Department of Finance and Administration,  
12 securities, banking.

13 Q Prior to the 1992 presidential campaign,  
14 did you ever speak with Ms. Schaffer, now  
15 Ms. Bassett, about Madison Guaranty?

16 MR. COLE: Prior to 1985?

17 MR. GIUFFRA: No. Prior to 1982.

18 THE WITNESS: I don't know. I don't  
19 remember doing so at all.

20 BY MR. GIUFFRA:

21 Q Were you aware that Mr. McDougal ran  
22 Madison Guaranty?

1       A    I was.

2       Q    Did there come a time when you learned that  
3 the bank was in trouble, to use an ordinary English  
4 expression?

5       A    Yes.

6       Q    How did you learn that Madison Guaranty was  
7 in trouble?

8       A    In my memory cells, I am trying to separate  
9 rumors that were around for a long time. Rumors went  
10 around not just about Madison, you understand. We  
11 were in a period of great turmoil around savings and  
12 loan associations.

13       So, rumors were not merely about Madison.  
14 There were general rumors about all kinds and  
15 specific institutions. I was always trying to not  
16 act on rumors but act on specific information.

17       So, I'm not certain I'm able to separate in  
18 my brain cells any official information and notices  
19 we received from the swirling of rumors about Madison  
20 and First South and all of them. There were enormous  
21 problems during that period of time.

22       Q    When you say "that period of time," what

---

1 are you referring to?

2       A    In the mid-'80s.

3       Q    Starting in probably about '85-86 or are  
4 you talking late '80s?

5       A    I think it was the mid-'80s.

6       Q    The best of your recollection, there were  
7 rumors swirling about savings and loans in Arkansas  
8 in the mid-'80s?

9       A    Yes. The rumors, I don't know if you are  
10 aware of this but bankers and savings and loan  
11 executives in Arkansas really didn't like each  
12 other. They were always telling stories on each  
13 other.

14       Q    I think that is true all over the country.

15       A    I constantly was getting information fed  
16 about S&Ls from bankers.

17       Q    And did anyone -- do you recall any rumors  
18 about McDougal's operation, Madison Guaranty?

19       A    I don't remember specific ones about  
20 specifically Madison.

21       Q    Did you ever discuss difficulties that  
22 Arkansas S&Ls were having with Governor Clinton?



1 A Oh, yes.

2 Q So he was aware of the difficulties that  
3 Arkansas S&Ls were having?

4 A Oh, yes, because some of them that were  
5 closed, we had considerable state moneys in  
6 uninsured, and we would have to go and get the  
7 finance board to meet and go into negotiations for  
8 the recovery. Yes, we had responsibility in the  
9 ramifications of the closure of some of these  
10 institutions.

11 Q Did you ever discuss any difficulties that  
12 Madison Guaranty was experiencing with Governor  
13 Clinton?

14 A Probably. I'm sure I did, because Jim had  
15 been a staff member, and he was someone he knew and  
16 someone he was concerned about. So, I'm certain I  
17 did.

18 Q Do you recall approximately when you might  
19 have spoken to Governor Clinton about any  
20 difficulties being suffered by Madison Guaranty?

21 A No.

22 Q Mid-'80s?

1 A Mid to late '80s was when -- I guess it was  
2 the late '80s when it all finally fell apart at  
3 Madison.

4 Q Were you aware there came a time when  
5 Mr. McDougal was removed as the head of Madison  
6 Guaranty Savings & Loan?

7 A Yes.

8 Q Do you recall approximately when that was?

9 A July of '86.

10 Q Why do you say July of '86?

11 A I think that is when he was removed. I  
12 think we looked it up.

13 Q You looked it up in preparing for testimony  
14 that you have given; correct?

15 A Yes.

16 Q Do you recall speaking with Governor  
17 Clinton about difficulties that Madison was  
18 experiencing prior to July of '86?

19 A I can't remember specific conversations,  
20 and therefore I can't remember specific dates.

21 Q But you might well have?

22 A (Witness nodding.)

1 Q Would that be a fair --

2 A Sure.

3 Q Do you recall ever speaking to Ms. Bassett  
4 about Madison prior to July of '86?

5 A I don't recall.

6 Q When you say you don't recall, you have no  
7 memory of ever speaking to Ms. Bassett about Madison  
8 prior to July of '86?

9 A I don't.

10 Q Did you ever speak to Mrs. Clinton about  
11 Madison prior to July of '86?

12 A I doubt that I spoke to her about the  
13 business. I don't know for certain what I would have  
14 spoken to her about on Madison. I'm pretty sure I  
15 once made a comment about the art deco decor that  
16 they had refinished the building with.

17 Q This is the headquarters?

18 A The Madison Guaranty building, yes.

19 Q Why are you pretty sure you made a comment  
20 to her about the decor of the Madison Guaranty  
21 headquarters?

22 A Because I was pretty impressed with it and

1 I made comments to people.

2 Q Do you recall any discussions you might  
3 have had with Ms. Bassett about Madison Guaranty  
4 during the '92 campaign?

5 A I don't think I had them. I think other  
6 people had conversations with her when we needed.

7 Q Do you recall who might have spoken to her?

8 A No. It would just depend on what came up  
9 on what day.

10 Q Do you know whether Mr. Lindsey spoke to  
11 Ms. Bassett?

12 A I don't know.

13 Q You were aware they were partners in the  
14 same law firm; correct?

15 A No, they weren't.

16 Q Wasn't she in the Wright, Lindsey firm?

17 A No. I think she was in the Mitchell firm.

18 Q First, and now is in the Wright, Lindsey  
19 firm. I think that is right, actually. But you have  
20 no idea who would have spoken to Ms. Bassett and  
21 debriefed her during the campaign?

22 A Prior to my coming to the campaign, a great

1 deal of information had been gathered about  
2 Whitewater-Madison.

3 Q Where were you physically --

4 A The Gerth story came out before I came to  
5 the campaign. Most of this had been gathered either  
6 prior to the first Gerth story or in response to the  
7 Gerth story in trying to correct it.

8 There were some basic information documents  
9 that I already had to work with when I arrived,  
10 including stuff that Beverly had done. I don't  
11 recall personally talking to her, but I probably --  
12 if we did have to run something else by her, I may  
13 well have had someone else working for me call her.

14 Q But you may well have spoken to her?

15 A I may well have.

16 Q What do you recall Ms. Bassett saying  
17 either directly or indirectly about Madison Guaranty  
18 during the '92 campaign?

19 A I don't. I never -- I never attempted to  
20 become an expert or knowledgeable about the ins and  
21 outs of Madison or Whitewater or any of that. I only  
22 worked on trying to put together answers to press

1 questions and verify their accuracy.

2 MR. GIUFFRA: Do you want to confer with  
3 your client?

4 MR. COHEN: He didn't ask that question.

5 THE WITNESS: But he danced around it a  
6 thousand times, so I thought I should tell him.

7 MR. COHEN: He asked if you talked to her  
8 during the campaign.

9 BY MR. GIUFFRA:

10 Q Did you recall speaking to Ms. Bassett  
11 prior to July of '86 about Madison Guaranty?

12 A I don't recall.

13 Q Do you recall ever speaking to Ms. Bassett  
14 about Madison Guaranty prior to the '92 campaign?  
15 I'm not assuming you spoke to her during the  
16 campaign.

17 A I don't recall the substance of any  
18 conversations I ever had with Beverly Bassett in her  
19 capacity as securities commissioner.

20 Q You learned during the 1992 campaign that  
21 Mrs. Clinton had spoken to Ms. Schaffer in connection  
22 with Madison Guaranty?

1 A Yes.

2 Q What is the extent of your knowledge about  
3 any communication Ms. Bassett and Ms. Clinton had  
4 about Madison Guaranty?

5 A What is or was?

6 Q What were you told about any communications  
7 that Mrs. Clinton had with Ms. Bassett about Madison  
8 Guaranty?

9 A I think there was some correspondence we  
10 had copies of, very limited.

11 Q Did Mrs. Clinton indicate to you that she  
12 had spoken to Ms. Bassett?

13 A I don't remember the specific information.

14 Q Do you recall asking Mrs. Clinton whether  
15 she had spoken to Ms. Bassett?

16 A The problem is a lot of this I know now  
17 from all kinds of things. It is hard to separate out  
18 what I knew then versus what has been heaped upon me  
19 through the media since.

20 MR. COHEN: To the extent you can, I think  
21 it is very important for them to try and  
22 compartmentalize, if you can.

1 THE WITNESS: I know. It is hard, and it  
2 makes my head hurt.

3 BY MR. GIUFFRA:

4 Q With regard to when you arrived at the  
5 campaign in March of '92, you indicated there were  
6 some basic documents in the files about  
7 Madison-Whitewater; is that right?

8 A I don't know where they were. They had  
9 been gathered.

10 Q Where were those documents stored?

11 A I don't know that.

12 Q Did you have file cabinets in your office?

13 A I did.

14 Q Did you have any locked file cabinets in  
15 your office?

16 A I did.

17 Q Were all the files that the campaign  
18 maintained relating to Arkansas issues, including  
19 Whitewater or Madison, maintained within your  
20 offices?

21 MR. COHEN: I'm going to ask you to break  
22 that question up, only because she has just said she



1 didn't know where some of the stuff was collected.

2 MR. GIUFFRA: Okay.

3 MR. COHEN: If you can distinguish stuff  
4 she collected from other stuff.

5 MR. GIUFFRA: I'm happy to. I'm trying to  
6 speed it up. Sometimes you hit stuff and you have to  
7 go through one by one.

8 MR. COHEN: Because, for example, it is  
9 theoretically possible that some documents such as  
10 the ones you asked her about that she hadn't seen  
11 before were at the campaign. I have no idea. I want  
12 to be careful as to what was in her filing cabinet  
13 and what wasn't.

14 BY MR. GIUFFRA:

15 Q Let's go through. With regard to  
16 Whitewater documents, and by "Whitewater documents,"  
17 I mean documents related to the Clintons' investment  
18 in Whitewater Development Corporation, did the  
19 campaign maintain such records when you arrived?

20 A What kind of documents?

21 Q Documents relating to the Clintons'  
22 investment in Whitewater.

1 MR. COHEN: If you want to talk to me, you  
2 are entitled to do that.

3 THE WITNESS: Well, I don't understand.

4 MR. COHEN: Ask him that.

5 THE WITNESS: We had a lot of documents in  
6 the preparation of press questions and assessments  
7 and analyses, et cetera, that we prepared about  
8 Whitewater.

9 BY MR. GIUFFRA:

10 Q That means your operation?

11 A Right.

12 Q You said when you arrived at the campaign  
13 in March of '93, a lot of information had been  
14 gathered; correct?

15 A I gather so.

16 Q So, you show up at the campaign and this  
17 information is gathered in some location within the  
18 campaign's offices; correct?

19 A I don't know that it was there.

20 Q You were advised by someone that this  
21 information had been gathered?

22 A I knew that there were people who had

1 reviewed Whitewater documents.

2 Q Were those Whitewater documents maintained  
3 on the premises of the campaign?

4 A I don't think so.

5 Q You don't believe they were?

6 A I honestly don't know. I don't know that I  
7 have ever laid eyes on those documents.

8 Q Have you ever laid eyes on any Whitewater  
9 documents -- strike that.

10 Have you ever laid eyes on any documents  
11 relating to the Clintons' investment in Whitewater?

12 A Created a whole bunch of documents about it  
13 in answer to press questions and assessments.

14 Q In preparing those responses to press  
15 inquiries, did you have occasion to look at  
16 underlying documents relating to the Clintons'  
17 investment in Whitewater?

18 A I don't think I ever looked at an  
19 underlying document.

20 Q Do you know whether persons working for you  
21 ever looked at any underlying Whitewater documents?

22 A I think that they had prior to my coming.

---

1 Q Okay, but do you know whether such  
2 underlying documentation was maintained at the  
3 campaign headquarters?

4 A I do not believe so. I don't know.

5 Q Were any documents maintained at the  
6 campaign headquarters as far as you know that had  
7 come from the Rose Law Firm?

8 A About --

9 Q About either Madison or Whitewater or the  
10 Rose Law Firm.

11 A Well, sometimes I would get a question  
12 about Rose Law Firm and I would ask them if they  
13 could give me a list of dates or a list of something  
14 or other and they would fax it over to me. I guess  
15 that is a Rose Law Firm document.

16 MR. COHEN: No. That's a copy of a Rose  
17 Law Firm document.

18 BY MR. GIUFFRA:

19 Q If you got a question about the Rose Law  
20 Firm documents, who would you have spoken to?

21 A It would have depended what the question  
22 was about.

1 Q Who were some of the people you would have  
2 spoken to?

3 A Web primarily, Carolyn Huber. It depended  
4 what the question was about.

5 Q Vince Foster?

6 A I might have talked to Vince, but not very  
7 much.

8 Q Primarily you would have spoken to  
9 Mr. Hubbell?

10 A Yes. He was like the managing partner or  
11 something like that.

12 Q Did you ever speak to Bill Kennedy?

13 A I don't think I did.

14 Q But as far as you know, because I think the  
15 record is a little unclear on this --

16 MR. COHEN: May I help you?

17 MR. GIUFFRA: Maybe it is better if I ask  
18 Ms. Wright.

19 BY MR. GIUFFRA:

20 Q You testified the campaign had gathered  
21 some documents related to Whitewater; correct?

22 A It is my understanding.

1 Q And they gathered some documents related to  
2 Madison; is that right?

3 You don't know that?

4 A I don't know that. I don't know what about  
5 Madison.

6 Q Had they gathered any documents related to  
7 the Rose Law Firm when you arrived, as far as you  
8 know?

9 A Well, in what regard about the Rose Law  
10 Firm?

11 Q Anything having to do with the Rose Law  
12 Firm.

13 A Not that that rings a bell with --

14 Q The one category of documents that you are  
15 sure the campaign gathered would be documents  
16 relating to the Clintons' investment in Whitewater;  
17 correct?

18 A I'm not sure of anything. I never saw  
19 them. It is my understanding that prior to my  
20 arrival at the campaign, there were people in the  
21 campaign who looked at original Whitewater documents  
22 from which some of the assessment that I had to work

1 with was made, and I don't know whether those  
2 materials stayed in the headquarters, went to  
3 Mr. Lyons, went to the CPA that worked for the  
4 Clintons. I don't know.

5 Q So, as far as you know, they were not  
6 maintained at the campaign? You just don't know --

7 MR. COHEN: She doesn't know.

8 BY MR. GIUFFRA:

9 Q You just don't know where they were  
10 maintained?

11 A I don't know where they were maintained. I  
12 certainly never needed to refer to them in the work  
13 that I did.

14 MR. COHEN: The confusion that has run  
15 through the Committee testimony and questioning and  
16 that I don't want to perpetuate in this deposition  
17 and hopefully will be straightened out as a result of  
18 this is the material that she worked on was generated  
19 by her for press questions and the rest.

20 MR. GIUFFRA: Let's get this on the record  
21 from Ms. Wright.

22 BY MR. GIUFFRA:

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1 Q The documentation that you generated during  
2 the campaign was material that was created during the  
3 campaign to respond to press inquiries; right?

4 A Correct.

5 Q Or to analyze things in connection with  
6 responding to press inquiries?

7 A And for the debate, debate preparation.

8 Q And in doing the work that was done by your  
9 unit, you didn't look at underlying documents. You  
10 relied on work that -- other people looked at the  
11 underlying documents and gave you derivative  
12 materials that you relied on?

13 A That is correct. Are you disappointed?

14 Q No. I'm just trying to --

15 A I read all kinds of interesting stuff I did  
16 in the paper.

17 MR. GIUFFRA: Off the record.

18 (Discussion off the record.)

19 BY MR. GIUFFRA:

20 Q The underlying documents relating to  
21 Whitewater, Madison, Rose Law Firm were not  
22 maintained by you at the campaign?



1 A No. I don't believe I have ever laid eyes  
2 on them.

3 Q You don't believe you have ever laid eyes  
4 on them on any occasion?

5 A I don't believe so.

6 Q As far as you know --

7 A That's not true.

8 MR. COHEN: I understand --

9 MR. GIUFFRA: You have laid eyes on them on  
10 an occasion. Were they shown to you by someone in  
11 connection with an investigation?

12 MR. COHEN: Or in connection with an  
13 investigation she had to look at them. Why don't we  
14 first answer your questions and then you can move on  
15 to this. You won't lose this. I have a big mark and  
16 so do you.

17 BY MR. GIUFFRA:

18 Q When have you seen underlying documents  
19 that relate to Whitewater or Madison?

20 A When I went to Arkansas in early '94 to try  
21 to compile a bunch of records I needed for other  
22 stuff, I located a box that when I opened it up was

1 Whitewater documents, and I brought it back to D.C.  
2 and gave it to Mr. Kendall. That's the underlying.

3 MR. COHEN: Now that you have the answer to  
4 that, could we make sure your record is clear in one  
5 or two questions you can ask or I can ask, that in  
6 the period up through the end of the campaign, prior  
7 to 1994, she did not, had not seen underlying  
8 Whitewater documents.

9 MR. GIUFFRA: You can answer that  
10 question.

11 BY MR. GIUFFRA:

12 Q Is that correct?

13 A That's correct.

14 MR. COHEN: And that the files she  
15 maintained in her files in her area were derivative  
16 materials used in responding to the press and debate  
17 prep.

18 THE WITNESS: That's correct.

19 BY MR. GIUFFRA:

20 Q You don't know where any underlying  
21 documents were maintained relating to Madison or  
22 Whitewater?

1 A I don't.

2 Q Your best guess would be that maybe  
3 Mr. Lyons had them or Ms. Redden had them, or you  
4 don't know whether that is true?

5 A They may have been in one of the file  
6 cabinets in my section. I don't know where they  
7 were.

8 Q You know they weren't there?

9 A I never worked with them. That's as far as  
10 I know.

11 Q Do you know whether anybody else who worked  
12 in your section or at the campaign ever worked with  
13 the underlying documents?

14 A I do know that they had prior to my  
15 arrival.

16 Q After your arrival, as far as you know, no  
17 one was working with underlying Whitewater documents?

18 A That's correct.

19 Q Or Madison Guaranty documents?

20 A That's correct.

21 Q Or Rose Law Firm documents?

22 A I don't even know what Rose Law Firm

1 documents --

2 Q For example, billing records like these  
3 that were discovered at the White House residence.

4 A We never had time for reading stuff like  
5 that.

6 Q In early 1994, there came a time when you  
7 went back to Arkansas and located a box of Whitewater  
8 documents that you gave to Mr. Kendall; correct?

9 A Correct.

10 Q What were the circumstances under which you  
11 went back to Arkansas to look for documents?

12 A I was trying to pull together -- we kept  
13 getting the -- the White House and I kept getting  
14 press questions about some campaign finance  
15 questions, and I really don't like talking from  
16 memory. I like talking from facts. So, I went to  
17 Arkansas to pull together the documents and bring  
18 them to D.C. so that they were here for more handy,  
19 ready reference.

20 In the process, I found this small box  
21 (indicating).

22 Q First question, issues that had arisen with

1 regard to campaign finance, those related to campaign  
2 funding or fundraising activities of the campaign  
3 during the 1992 campaign?

4 A I'm sorry.

5 Q That was a badly phrased question.

6 The issues that had arisen with regard to  
7 campaign -- the Clinton campaign finance issues, what  
8 did they relate to?

9 A Questions about things regarding -- there  
10 seems to be no end to the kinds of things people can  
11 think up to ask.

12 MR. COLE: I'm confused whether we are  
13 talking about presidential campaign finance issues or  
14 prior gubernatorial.

15 THE WITNESS: Just gubernatorial campaign.

16 BY MR. GIUFFRA:

17 Q So, you went back -- I was a little  
18 confused on that as well.

19 In early 1994, when you went back to  
20 Arkansas to look for campaign records, the campaign  
21 records related to prior gubernatorial campaigns?

22 A Correct.

1 Q Not the presidential campaign?

2 A Correct.

3 Q Do you recall specifically what campaigns  
4 you were looking for the records for?

5 A All of them.

6 Q Who asked you to go and look for the  
7 campaign records?

8 A Nobody.

9 Q You did it on your own accord?

10 A You bet. I was tired of having to remember  
11 stuff I couldn't remember.

12 Q You were the document custodian of the  
13 documents for the gubernatorial campaign?

14 A No. I am now.

15 Q So, you basically -- why were you the  
16 person getting the press inquiries? Because you have  
17 been the campaign manager?

18 A Correct.

19 MR. COHEN: You will have to ask the press  
20 that.

21 BY MR. GIUFFRA:

22 Q Now, where were these files maintained in

1 Arkansas?

2 A They were in a storage room in Little  
3 Rock.

4 Q Do you remember the name of the storage  
5 facility?

6 A No.

7 Q Was it in a trailer -- do you recall  
8 anything about the storage facility? Location?  
9 Name? What part of Little Rock?

10 A I don't. I don't remember. It was just a  
11 storage place.

12 Q Was this a storage facility the campaign  
13 rented?

14 A I don't know who rented it technically,  
15 because I think the campaign didn't exist anymore in  
16 '94.

17 Q You don't know who would have paid the rent  
18 on it? Was it a place you had to rent space?

19 A Right.

20 Q You don't remember where it was?

21 A It was in an industrial park area. I  
22 remember that. I'm trying to remember where I drove

1 from and to. I just don't remember. It wasn't a  
2 part of town I had ever been to before. I didn't  
3 know that stuff was out there.

4 Q Did the campaign have a bin in a warehouse  
5 facility or was this a self-contained unit that was  
6 sort of outside, a bunch of units?

7 A No. There weren't units.

8 Q It was a bin -- did you have like a  
9 location within a floor of a building, for example?

10 A A floor of a building?

11 Q Did you have like a storage cubicle within  
12 a building with a series of storage cubicles?

13 A No, no.

14 Q Did you have a file cabinet? Did you have  
15 a couple of rooms?

16 A I don't know where they were.

17 Q What sort of documents were stored at this  
18 facility?

19 A The ones that I am aware of are the Clinton  
20 gubernatorial papers, attorney general papers,  
21 campaign papers, all the stuff I collected for the  
22 campaign.



1 Q And would that also include presidential  
2 campaign materials?

3 A Probably.

4 Q So basically all Bill Clinton's papers,  
5 campaign and official papers would have been  
6 maintained in this facility?

7 A Correct.

8 Q And you don't know where the facility --  
9 does he still have the facility? Are the papers  
10 still maintained at this facility?

11 A I assume. I don't know. I have no  
12 connection.

13 Q Is there any way you can find out where the  
14 facility was located?

15 A Sure.

16 Q We might want to try to get that  
17 information if we can.

18 Was this a rather large -- was it a room  
19 with a bunch of file cabinets in it?

20 A No. Papers were in storage boxes.

21 Q Just a series of storage boxes. I would  
22 think there would have been a lot of storage boxes if

1 it reflected his entire period that he was governor.

2 A That's correct.

3 Q And there were also files -- the files you  
4 created during the '92 campaign were put in this  
5 facility, correct, after the campaign?

6 A With a couple of exceptions, yes.

7 Q Did you bring the documents to this  
8 facility?

9 A No, I did not.

10 Q Did you direct someone to bring the  
11 documents to the facility?

12 A No, I did not.

13 Q They just were brought there and you don't  
14 really know how they got there; is that right?

15 A I don't.

16 Q You don't know how the documents got from  
17 your file cabinets at the campaign to the storage  
18 facility?

19 A When the campaign was over, we left our  
20 stuff so that they could take it and store it.

21 Q When you say there were a couple of  
22 exceptions with regard to your documents that you

1 had, what were the exceptions?

2 A I took some of the files from my office  
3 from the headquarters just so they didn't get mixed  
4 in with general storage until more order was in  
5 place.

6 Q What were the documents that you kept?

7 A They were things that I thought either were  
8 very, very personal to the Clintons, were items that  
9 they likely would hear of again or were fairly  
10 inflammatory kinds of files, just an assortment.

11 Q Approximately how many boxes?

12 A 10.

13 Q And you know for sure it is 10 boxes?

14 A No. You asked me approximately. I think  
15 it was approximately 10.

16 Q Did you have those boxes shipped to  
17 Washington?

18 A No.

19 Q What happened to those boxes?

20 A I took them to my house in Little Rock.

21 Q For how long did they stay at your house in  
22 Little Rock?

1 A Oh, several weeks.

2 Q Then where did they go?

3 A I took them to Web Hubbell at the Rose Law  
4 Firm.

5 Q All 10 boxes?

6 A No. I kept one.

7 Q What was the box you kept?

8 A Oh, it was some information that had been  
9 given to me by an idiot who is now suing me. Until  
10 the lawsuit was over, I was hanging on to the idiot's  
11 papers.

12 MR. COHEN: And no, it doesn't have  
13 anything to do with Whitewater, Madison or anything  
14 in the resolution.

15 BY MR. GIUFFRA:

16 Q Was it a campaign matter?

17 A No.

18 Q It was your own personal business?

19 A It was another one of the fabrications.

20 Q Someone was making allegations about you  
21 personally that you maintained a box of stuff on?

22 A No. It was stuff I had collected during

1 the campaign when he would drop by and leave it off  
2 and stuff like that. Listen, it was dismissed. It  
3 is gone. I still just have the box, though.

4 Q What was the lawsuit about?

5 MR. COHEN: What was the caption of the  
6 lawsuit?

7 THE WITNESS: I don't know. How do you  
8 describe it? This person is not mentally stable.

9 MR. COHEN: What is the person's name?

10 THE WITNESS: His name is Larry Case.  
11 Mr. Bossie knows him well.

12 MR. COHEN: Suffice it to say it has  
13 nothing to do with these areas.

14 BY MR. GIUFFRA:

15 Q All right. So this 10 boxes of documents,  
16 you keep one box, approximately one box, you bring  
17 nine boxes over to Web Hubbell. This is probably  
18 about November, mid-November --

19 A No.

20 Q Later?

21 A It was probably January.

22 Q January 1993?

1 A Correct.

2 Q And within those boxes are things, personal  
3 matters of the Clintons. Are these personal files  
4 like passport, birth certificate, financial records,  
5 Visa bills?

6 A I don't believe I have any of their  
7 financial records.

8 Q Just in general terms.

9 A I found a number of letters that had been  
10 written to Bill when he was an undergraduate and when  
11 he was in law school and when he was at Oxford. They  
12 were just personal letters from school chums that I  
13 felt he should decide where they ultimately lived,  
14 not just be lost in a storage facility.

15 Q The inflammatory stuff relates to  
16 allegations about the Governor's personal life, or is  
17 that Whitewater stuff as well? I want to try to get  
18 a sense of the Web Hubbell files.

19 A It didn't relate to the Governor's personal  
20 life. It related to lies about the Governor's  
21 personal life. I had done some research on his  
22 father, just that kind. I had birth certificate,

1 marriage certificate, employment records,  
2 transcripts.

3 Q Within the category of documents matters  
4 you are likely to hear from again, did that encompass  
5 Whitewater-Madison documents?

6 A Yes, the press questions.

7 MR. COHEN: Not underlying documents, but  
8 the derivative work on that subject.

9 BY MR. GIUFFRA:

10 Q The boxes that you gave to Hubbell as they  
11 related to Madison or Whitewater were the derivative  
12 work product that you had prepared during the  
13 campaign?

14 A Correct.

15 Q There were no underlying Whitewater  
16 documents within those documents?

17 A I don't believe so.

18 Q Were these documents that you had -- were  
19 these materials you had prepared or did it also  
20 include the materials prepared by Ms. Lynch and other  
21 people in your unit?

22 A The latter.

1 Q It included materials prepared by other  
2 people in your unit, correct, and yourself?

3 A Correct.

4 Q Those boxes went over to Mr. Hubbell in  
5 approximately January of '93?

6 A Correct.

7 Q Who asked you to bring them to Mr. Hubbell?

8 A Mr. Hubbell.

9 Q Did Mr. Hubbell say he was acting at  
10 anyone's direction?

11 A No. He just said he was supposed to get  
12 the boxes from me.

13 Q Did he indicate to you in any way that  
14 Mrs. Clinton had asked him to collect these boxes?

15 A No.

16 Q Did he indicate to you in any way that the  
17 Governor had asked him to gather these boxes?

18 A No.

19 Q You have no indication as to why. He just  
20 took it upon himself to collect these boxes?

21 A No. He was working in the transition.

22 There were people whose job it was to get them moved



1 and get their personal effects together and get  
2 things shut down. Believe me, Bill and Hillary  
3 weren't worried about where boxes were.

4 Q You had maintained these boxes at your  
5 house in Little Rock?

6 A Correct.

7 Q For about two months?

8 A Correct.

9 Q Then, what, did Mr. Hubbell come pick them  
10 up?

11 A No. I took them to him.

12 Q You drove them to his house?

13 A No. To the Rose Law Firm.

14 Q Did you deliver them directly to  
15 Mr. Hubbell?

16 A I did.

17 Q He took them from you?

18 A That's correct.

19 Q Do you know anything more about these boxes  
20 of documents, what happened to these boxes of  
21 documents?

22 A At some point Mr. Kendall had them, got

1 them, because then they were available for me to look  
2 stuff up in answer to -- I was still getting a lot of  
3 press questions. The White House would call and ask  
4 me questions.

5 Q The documents went from you to Mr. Hubbell  
6 to Mr. Kendall; is that correct?

7 A All I know is they went from me to  
8 Mr. Hubbell. Then I know that Mr. Kendall had them.  
9 I know nothing about the interim time.

10 Q You know nothing about the time between  
11 when they went to Mr. Hubbell and to Mr. Kendall?

12 A No.

13 Q When approximately did the documents make  
14 their way to Mr. Kendall? When is the first you were  
15 aware that Mr. Kendall had possession of these  
16 boxes? Late '93, early '94?

17 A It was in '93. I quite frankly don't  
18 remember when Mr. Kendall --

19 Q He wasn't retained until the latter part of  
20 '93, I believe approximately late October,  
21 November.

22 A It would have been when he came on board.

1 Q Approximately that time you were contacted  
2 by Mr. Kendall and you went and looked at some  
3 documents over at his office; is that right?

4 MR. COHEN: Do you know who contacted  
5 whom?

6 MR. GIUFFRA: Any time you want to  
7 interrupt with a clarifying question, it is fine with  
8 me. I have no problem.

9 MR. COHEN: Without regard to who called  
10 whom, do you remember when it was?

11 THE WITNESS: I don't.

12 BY MR. GIUFFRA:

13 Q Did Mr. Kendall or anyone working for  
14 Mr. Kendall indicate these were the boxes we obtained  
15 that were apparently your boxes from the campaign?

16 A I'm sorry?

17 Q Did you -- were the boxes when you saw them  
18 in Kendall's office at Williams & Connolly, were the  
19 documents still in the boxes?

20 A Absolutely.

21 Q Did you look through the boxes?

22 A I did.

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1 Q And did Mr. Kendall indicate to you from  
2 whom he had received the boxes, or anyone working for  
3 Mr. Kendall?

4 A No.

5 Q So, no one told you whether they had gotten  
6 the boxes from Hubbell or anyone else?

7 A No. I learned from newspaper accounts that  
8 they had been at Web's house when Web testified.

9 Q At Web's house in Washington?

10 A Uh-huh.

11 Q Your knowledge with regard to that is  
12 solely based on news accounts?

13 A Newspaper reports, yes.

14 Q Did you -- when you looked at the boxes of  
15 documents in late 1993 at Williams & Connolly, did  
16 you attempt to ascertain whether any files had been  
17 removed from those boxes?

18 A I don't even know how I would have done  
19 that.

20 Q You looked through the boxes of documents;  
21 correct?

22 A That's correct.

1 Q Did it appear to be that the documents as  
2 they were sitting in the files were about how you  
3 left them?

4 A Yes.

5 Q And you are quite certain that when you had  
6 the documents during the campaign, there were no  
7 underlying Whitewater or Madison documents?

8 A Yes.

9 Q So, you don't recall seeing any client  
10 files of the Rose Law Firm relating to Madison  
11 Guaranty?

12 A No.

13 Q And you think that is the kind of thing you  
14 would have remembered seeing; correct?

15 A I think I would have thought it wasn't the  
16 kind of thing I should be seeing.

17 Q You would have remembered -- had a file --  
18 let me rephrase the question.

19 If there had been client files of the Rose  
20 Law Firm relating to Madison in your campaign files,  
21 you think you would have probably remembered that;  
22 correct?

1 A I think so.

2 Q And it would be your view you probably  
3 shouldn't have had that stuff over at the campaign?  
4 I'm asking for your state of mind. You think you  
5 probably wouldn't have wanted to have that stuff?

6 A If they were Rose Law Firm files, they  
7 would need to go back to the Rose Law Firm.

8 Q In early 1994 -- you don't recall why you  
9 went back to the storage facility yourself, do you?

10 A Sure, I do.

11 Q It was to respond to press inquiries?

12 A Because I was tired of not having the facts  
13 at hand to answer.

14 Q You don't recall who asked you to go back  
15 other than it was a decision on your own?

16 A I did make the decision on my own.

17 Q You went back to the storage facility and  
18 looked through some boxes and located campaign  
19 finance records related to the gubernatorial  
20 campaigns?

21 A Correct.

22 Q What other kinds of documents did you come

1 upon?

2 A What kind of documents did I come upon?

3 Q Were there other types of documents you  
4 were looking for?

5 A No.

6 Q You were just looking for the fund --

7 A The finance records.

8 Q Of the gubernatorial campaigns.

9 In the course of looking through those  
10 records, you came upon a box of Whitewater documents;  
11 correct?

12 A That's correct.

13 Q And what was in that box of Whitewater  
14 documents?

15 A I don't remember. Like bank statements or  
16 something.

17 Q Did you look inside the box?

18 A I did.

19 Q You just recall seeing bank statements?

20 A Yes, because I would have picked it up to  
21 see which gubernatorial campaign it was, and it said  
22 Whitewater something or another.

1 Q Was it a bank record or was it an article  
2 of incorporation of a company?

3 A It looked to me like bank statements or  
4 something like that.

5 Q Were there any checks in there?

6 A I think so. I think it was a box of bank  
7 statements. I didn't go through it. Once I  
8 determined it was Whitewater documents --

9 Q What did you do with it?

10 A I gave them to Mr. Kendall.

11 Q Did you bring them back to Washington?

12 A I did.

13 Q You gave them to Mr. Kendall and that's the  
14 last you know about that box?

15 A That's correct.

16 Q You don't know whether there were any other  
17 boxes containing Whitewater or Madison documents in  
18 the storage facility?

19 A No, but you see, I had them pull just the  
20 boxes I thought were the most likely to have what I  
21 was looking for in them.

22 Q Was there an index of the boxes that were



1 stored at the storage facility?

2 A Yes, sort of.

3 Q What do you mean by "yes, sort of"?

4 A Well, it was a lousy index.

5 Q Was there a full-time employee maintaining  
6 these files?

7 A Not maintaining the files. There were  
8 people who worked for the storage facility.

9 Q But they were the only ones responsible for  
10 the handling of these files, as far as you know?  
11 There wasn't a former gubernatorial staffer or some  
12 volunteer or presidential employee who was  
13 maintaining these documents?

14 A There was an employee of that Little Rock  
15 office, for the DNC Little Rock office who went with  
16 me there and was with me.

17 Q There is a DNC office in Little Rock;  
18 correct?

19 A Correct.

20 Q An employee of that office brought you to  
21 the storage facility?

22 A Correct.

1 Q Do you remember the name of the person?

2 A Becky Vincent.

3 Q Who is Becky Vincent?

4 A I don't know.

5 Q She was the person who took you there and  
6 seemed to be responsible for the documents that were  
7 maintained in this facility?

8 A Well, she worked for the people responsible  
9 for them.

10 MR. GIUFFRA: Want to take a break here for  
11 a second?

12 MR. COLE: Before we leave this line of  
13 questioning, have we established the time in 1994 of  
14 this trip to Little Rock as best we can?

15 MR. GIUFFRA: I think she said January  
16 '94.

17 MR. COLE: January '94?

18 BY MR. GIUFFRA:

19 Q Is that right, Ms. Wright?

20 A That's correct.

21 Q Do you know anything more than you  
22 testified about about the process by which

1 Whitewater-Madison documents were gathered during the  
2 '92 campaign prior to your arrival?

3 A No.

4 Q And you don't know who was involved in  
5 gathering the documents; correct?

6 A Not really.

7 Q Do you think Mr. Hubbell was probably  
8 involved?

9 A I don't know.

10 MR. COHEN: Don't guess. If you know.

11 BY MR. GIUFFRA:

12 Q You don't know at all?

13 A I wasn't there.

14 Q Was Ms. Thomases working at the campaign  
15 when you arrived?

16 A No, I don't think she came on full time on  
17 the staff until much later. But she came in and out  
18 of the headquarters.

19 Q As far as you know, Ms. Thomases had a role  
20 responding to press inquiries relating to Whitewater  
21 or Madison?

22 A Not while I was there.

1 Q So you basically were in charge of that  
2 function?

3 A Correct.

4 Q Do you know whether prior to your arrival,  
5 Ms. Thomases played any role in responding to press  
6 inquiries relating to Whitewater or Madison?

7 A I think I did know that.

8 Q What did you know about that?

9 A That's it.

10 Q That's the extent of your knowledge.

11 How about -- you know Mr. Lyons had a role;  
12 correct?

13 A Correct.

14 Q And do you know whether Mr. Foster had any  
15 role with regard to responding to press inquiries?

16 A I do not know.

17 Q When you took over the function, did you  
18 ever have any dealings with Mr. Foster or Mr. Hubbell  
19 with regard to Whitewater-Madison? Strike that.

20 I believe you testified you had some  
21 dealings with Mr. Hubbell; correct?

22 A I may have with Vince, but I don't

1 remember.

2 Q Definitely Hubbell, maybe Foster, in  
3 responding to these press inquiries.

4 MR. COLE: I believe her testimony was that  
5 was with regard to the press inquiries involving the  
6 Rose Law Firm as opposed to more general or  
7 Whitewater specifically.

8 THE WITNESS: Correct.

9 BY MR. GIUFFRA:

10 Q The press inquiries would have related to  
11 Madison?

12 A No, not necessarily.

13 Q It would have been Rose Law Firm  
14 generally.

15 MR. COHEN: But it is also correct that  
16 some of the Madison inquiries may have related to the  
17 Rose Law Firm's role in representation of Madison, so  
18 that the overlap is there.

19 THE WITNESS: Correct.

20 BY MR. GIUFFRA:

21 Q Did a man named Roger Martin have any role?

22 A Yes.

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1 Q Who was Roger Martin?

2 A He was on my staff and division.

3 Q What did he do?

4 A Whatever we needed doing he did. Analysis,  
5 research, pulling stuff together.

6 Q What is his background?

7 A I had known him -- I had hired him one  
8 summer as an intern in the Governor's office. I  
9 believe I had helped him get a subsequent job after  
10 he got out of college.

11 He had been a student of Diane Blair's. We  
12 were both very fond of him. He was there when I  
13 arrived. Diane had recruited him.

14 Then when we set up the war room in the  
15 general election, he was my division's person in the  
16 war room.

17 Q What do you mean by "division's person"?  
18 Your division meaning your area?

19 A The Arkansas record folks.

20 Q Prior to your arrival at the campaign, who  
21 was in charge of handling Arkansas records issues?

22 A I don't know. I think it was very

1 haphazard.  
2 Q Did Ms. Blair have a role?  
3 A She did.  
4 Q Prior to your arrival and after your  
5 arrival?  
6 A Oh, most definitely.  
7 Q How about somebody by the name of Kevin  
8 O'Keefe?  
9 A Kevin had a role, not in anything related  
10 to Whitewater or Madison that I recall.  
11 Q Did he work for you?  
12 A Oh, he wasn't full time on the staff.  
13 Q What is Mr. Martin doing right now?  
14 A I think he is in law school, and he works  
15 part-time, I think -- I'm not positive -- I know he  
16 works sometimes at the DNC Little Rock office.  
17 Q Mr. O'Keefe, what was his role in the  
18 campaign? Did he work for you?  
19 A No, he didn't.  
20 Q Do you know what part he worked for?  
21 A I don't think he was on the staff of the  
22 campaign.

1 Q He was a volunteer?  
2 A He just came in and out as an adviser.  
3 Q Is he a lawyer?  
4 A Yes.  
5 Q Do you know what firm he works at?  
6 A I think he works at the White House now.  
7 Q Do you know what his role is at the White  
8 House?  
9 A No.  
10 Q Did he have any responsibility in any way  
11 related to Madison or Whitewater?  
12 A No.  
13 Q And you are confident of that.  
14 Mr. Siegel --  
15 MR. COHEN: I take it it is not to your  
16 knowledge.  
17 THE WITNESS: Not while I was there.  
18 BY MR. GIUFFRA:  
19 Q Mr. Eli Siegel, do you know him?  
20 A Yes.  
21 Q Did he work for you?  
22 A No.



1 Q What was his role during the campaign?

2 A In the general election, he was -- I forget  
3 what his title was, but he was there full time in  
4 Little Rock on the campaign.

5 Q I just want to be clear on one thing. With  
6 regard to the document collection, you didn't have  
7 any role with regard to collecting documents relating  
8 to Madison or Whitewater; correct?

9 A No.

10 MR. COHEN: Underlying records.

11 MR. GIUFFRA: Yes, let's focus on that.

12 BY MR. GIUFFRA:

13 Q As far as you know, you didn't maintain  
14 underlying Whitewater or Madison or Rose Law Firm  
15 records during the campaign?

16 A That's correct.

17 Q And the documents that you gave to  
18 Mr. Hubbell would not have included underlying  
19 Whitewater, Madison or Rose Law Firm files?

20 A That's correct.

21 Q Now -- and you never collected any files of  
22 any sort from the Rose Law Firm during the time you

1 were on the campaign; right?

2 A Not Rose Law Firm files. I might have  
3 collected something of Hillary's that she kept at the  
4 Rose Law Firm, but not Rose Law Firm files.

5 Q Or Whitewater-Madison documents?

6 A Correct.

7 Q Did you collect any information regarding  
8 Mr. Dan Lasater during the campaign?

9 A I think I have a lifetime of collecting  
10 information about Mr. Dan Lasater.

11 MR. COLE: Do you think this would be an  
12 appropriate time to take a break before we start into  
13 a new inquiry, at least a bathroom break?

14 MR. GIUFFRA: If you want to take one,  
15 that's fine.

16 (Recess.)

17 BY MR. GIUFFRA:

18 Q Ms. Wright, when I use the term  
19 "Madison-Whitewater," does that also encompass --  
20 off the record.

21 (Pause.)

22 BY MR. GIUFFRA:

1 Q When I use the term "Madison," that also  
2 encompasses the 1985 fundraiser? I don't want to  
3 have to go back through all these questions about who  
4 had the documents and who didn't have the documents.

5 A No, it doesn't. Madison Guaranty was a  
6 business.

7 Q Did you maintain underlying documents at  
8 the campaign relating to the '85 fundraiser?

9 A I did.

10 Q What underlying documents did you maintain  
11 at the campaign related to the '85 fundraiser?

12 A The copies of the deposits of the checks,  
13 the thank you letters, the schedule and information  
14 about it.

15 Q And those documents were at the end of the  
16 campaign brought over to the storage facility?

17 A Yes.

18 Q Were those documents contained within the  
19 10 boxes that you kept?

20 A No.

21 Q You just brought them right over to the  
22 storage facility?

1 A Right.

2 Q Let me ask you a question. Did the Clinton  
3 gubernatorial campaigns maintain computer files of  
4 fundraising activities, givers?

5 A Not per se. We maintained computer files  
6 of givers, yes.

7 Q Did you have a computer disk containing  
8 givers?

9 A I don't know if it was a disk.

10 Q But it was some sort of computer record?

11 A Correct.

12 Q Would that have been for most of the  
13 campaigns throughout the '80s?

14 A Yes.

15 Q Do those computer records still exist?

16 A I don't know.

17 Q When was the last time you saw those  
18 computer records?

19 A During the '92 campaign.

20 Q So, do you recall whether this was a big  
21 disk, a floppy disk, a hard disk?

22 A I don't know about the disk.

1 Q But they were definitely in computer  
2 format?

3 A Yes. I could type on my terminal and get  
4 them. I did a lot of input of contributors in  
5 between campaigns and stuff.

6 Q That information was maintained on the 1992  
7 Clinton presidential campaign computer system?

8 A I don't know that it was.

9 Q Was it maintained --

10 A I had access to that database.

11 Q Was that database maintained on your  
12 computer at the campaign?

13 A I could look at it from my terminal at the  
14 campaign.

15 Q Do you know whether other people could look  
16 at that at their terminals?

17 A I don't know whether everybody could.

18 Q Could other people? Could Ms. Blair, for  
19 example?

20 A I don't remember. Probably. There  
21 wouldn't have been any reason for her not to.

22 Q You don't know what happened to the

1 information that was maintained on that computer  
2 database?

3 A I don't.

4 Q As far as you know, it is still in  
5 existence?

6 A I have no idea.

7 Q Might that computer database be maintained  
8 by the RNC office in Little Rock?

9 A It is not the RNC. You have been very  
10 courteous so far.

11 Q DNC. I'm sorry.

12 When you talk about Madison documents, does  
13 that also include any underlying documents relating  
14 to Jim McDougal?

15 A There might be Jim McDougal information  
16 that was separate from Madison.

17 Q Would you have -- when you said you didn't  
18 collect any underlying or store any underlying  
19 Madison or Whitewater documents, might you have  
20 collected or stored any underlying Jim McDougal  
21 documents during the '92 campaign?

22 A Insofar as Jim McDougal would have showed

1 up in any of the records in the Governor's papers,  
2 Governor's office, I had them at the campaign. Did I  
3 have a Jim McDougal file that I compiled them all  
4 in?

5 This is one of those questions I'm telling  
6 him how he should ask.

7 MR. COHEN: Just clarify it for him and  
8 answer.

9 BY MR. GIUFFRA:

10 Q You have probably been asked these  
11 questions 25 times.

12 A No. Most of the people who are interested  
13 in Jim McDougal are in this room.

14 I didn't collect and gather up McDougal  
15 information.

16 Q Did you have a Jim McDougal file that you  
17 maintained at the campaign? Did anyone have a Jim  
18 McDougal file that they maintained at the campaign?

19 A Not that I recall.

20 MR. COHEN: You can't shake your head. She  
21 needs an audible response.

22 THE WITNESS: She can see me.

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1 MR. GIUFFRA: He is correct.

2 BY MR. GIUFFRA:

3 Q Did you maintain a Dan Lasater file during  
4 the campaign?

5 A I collected -- I pulled together Dan  
6 Lasater information.

7 Q What sort of information did you pull  
8 together about Dan Lasater?

9 A Because he had been used against us in  
10 previous campaigns, I pulled together everything I  
11 could think of that if I were running against Bill  
12 Clinton I would hit him with. Actually, when I  
13 arrived at the campaign was when an LA Times story  
14 about Mr. Lasater hit. So I was moving quickly.

15 Q With regard to Mr. Lasater, there was a  
16 point in time when he was a friend of the governor's?

17 A I don't know that they were ever personal  
18 and social friends. But they were definitely  
19 acquaintances.

20 Q Governor Clinton, for example, did he ever  
21 use Mr. Lasater's airplane?

22 A I believe I lined it up a couple of times.



- 1 Q Did he ever visit Mr. Lasater's home?  
2 A Yes, I think so.  
3 Q Do you recall when that was?  
4 A No. There was some open house or  
5 fundraiser for some politician going on there.  
6 Q At Lasater's home?  
7 A Yes.  
8 Q There was a relationship between Roger  
9 Clinton and Dan Lasater; correct?  
10 Yes, you are nodding?  
11 A Correct.  
12 Q Roger Clinton worked for Dan Lasater?  
13 A Briefly.  
14 Q Do you recall when that was approximately?  
15 A I don't.  
16 Q Was the Governor aware of the fact that  
17 Roger worked for Dan Lasater?  
18 A Oh, yes.  
19 Q And did the Governor play any role in  
20 getting Roger the job with Dan Lasater as far as you  
21 know?  
22 A I don't know.
- 

- 1 Q You would assume so?  
2 A No. I mean, I have read stuff. I think  
3 this may have been before I moved to Arkansas, but  
4 I'm not positive.  
5 Q Do you think this might have been in the  
6 '78 to '80 period?  
7 A Yes.  
8 Q Did Mr. Lasater ever visit the Governor's  
9 office while you were there?  
10 A I don't recall.  
11 Q Do you recall whether he ever visited the  
12 Governor's mansion?  
13 A We invited him to Christmas receptions and  
14 stuff like that. I don't remember if he went. But  
15 he would have been on invitation lists.  
16 Q Why would he have been on invitation lists?  
17 A As a supporter, a contributor, a business  
18 leader.  
19 Q Did you maintain any files relating to the  
20 Arkansas Finance Development Authority during the '92  
21 campaign?  
22 A I collected a lot of information. Again,

1 this was an issue that had come up before.

2 MR. COHEN: Can we again in this area, for  
3 understandability of the record, distinguish between  
4 underlying documents and derivative documents for  
5 response to the press and campaign prep purposes.

6 BY MR. GIUFFRA:

7 Q Did you collect any underlying documents  
8 relating to ADFA during the '92 campaign?

9 A What is an underlying document related to  
10 ADFA?

11 MR. COHEN: When I use the term, so it is  
12 clear, it is an original document like a transaction  
13 document, for example, original minutes.

14 THE WITNESS: Not originals. I collected  
15 copies of a number of ADFA documents.

16 BY MR. GIUFFRA:

17 Q A copy -- let's make sure we are clear  
18 about this. This goes back to the other answers you  
19 gave.

20 A copy of a bond offering document, okay,  
21 would you deem that to be an original document as  
22 opposed to a newspaper article or something that you

1 prepared that was derivative of original documents;  
2 is that a fair distinction? Yes?

3 A Yes.

4 Q When we talk about underlying Whitewater or  
5 Madison documents, you were not referring to copies  
6 of underlying documents?

7 A I didn't have copies of underlying  
8 documents either.

9 Q All the documents you had were derivative  
10 documents, e.g., for example, newspaper articles,  
11 internal campaign memos, statements from people about  
12 Whitewater or Madison?

13 A With one -- I think I might have had a copy  
14 of the First Lady's letter to the securities  
15 commissioner.

16 Q That would be an underlying document.

17 A I think I probably had a copy of that.  
18 That's the only thing I can think of.

19 Q Is that the first time you saw that letter,  
20 was during the campaign?

21 A I believe so.

22 Q When you were chief of staff to the

1 Governor, did you have any contact with Dan Lasater  
2 or anyone from his firm in connection with any bond  
3 offerings of either ADFA or the state police  
4 department?

5 A Yes.

6 Q What was the nature of your contacts with  
7 Mr. Lasater or agents of Mr. Lasater with regard to  
8 bond offerings?

9 A They, like most companies, didn't feel like  
10 they were getting enough consideration.

11 Q So, they would complain to you?

12 A Yes, they, like most of the companies.

13 Q That would be the Arkansas companies?

14 A Well, primary Stephens, Inc. and Lasater.  
15 It is sort of like bankers and S&Lers.

16 Q Were they the two big firms that did the  
17 bond underwriting work?

18 A No.

19 Q They were the two big complainers?

20 A Yes. They would complain about each  
21 other. They didn't like each other.

22 Q What was the frequency of your contacts

1 with either Mr. Lasater or any agent of Mr. Lasater  
2 with regard to bond offerings of either ADFA or the  
3 state police department?

4 A Probably not more than a couple contacts.

5 Q Over the entire time you were the chief of  
6 staff?

7 A Yes, two or three times.

8 Q Two or three times. Do you recall anything  
9 specifically about those complaints?

10 A They just didn't feel like they ever got  
11 included properly, fairly. You know, I wouldn't have  
12 been discussing about a specific bond proposal. It  
13 would have just been whether they felt like they were  
14 getting enough business or not.

15 Q Did you ever discuss whether Dan Lasater or  
16 his firm was getting enough business, bond business,  
17 with Governor Clinton?

18 A Ask me that again.

19 Q Did you ever discuss with Governor Clinton  
20 whether the Lasater firm or Mr. Lasater were  
21 receiving sufficient bond work from the state of  
22 Arkansas or its agencies and instrumentalities?

1 A I still don't understand what you are  
2 asking. You are asking me if I talked to Bill  
3 Clinton about something. I don't know what it is you  
4 are asking if I talked about.

5 MR. COHEN: How about Lasater's  
6 complaints.

7 BY MR. GIUFFRA:

8 Q Did you ever discuss Lasater's complaints  
9 with Governor Clinton?

10 A I'm sure I told him if somebody had  
11 complained again, but I wouldn't --

12 Q You don't remember or you do remember? You  
13 think you did speak to Governor Clinton about  
14 Lasater's complaints?

15 A I don't know that I spoke to him. I  
16 probably just said they are upset again or  
17 something.

18 Q Do you recall any responses that the  
19 Governor might have made when you told him of  
20 Lasater's complaint?

21 A I wouldn't need a response. Part of my  
22 world was trying to help people in all agencies of

1 government feel that they were being treated with  
2 dignity and responsively, and so it is just a matter  
3 of be careful, you are hurting feelings, or something  
4 like that.

5 Q Did Governor Clinton ever indicate to you  
6 that bond work should be given to Mr. Lasater or his  
7 firm?

8 A No, not specifically.

9 Q Did he generally indicate that bond work --

10 A No. Our policy was that it would be an  
11 inclusive, open and competitive process, unlike the  
12 predecessor.

13 Q Did you ever discuss with Governor Clinton  
14 the giving of bond work to Mr. Lasater or his firm?

15 A I might have informed him who had been  
16 selected by ADFA on a given deal or something.

17 Q Did he ever indicate to you that he would  
18 have had a preference with regard to who would  
19 receive bond work?

20 A Not at all. His preference was that there  
21 would be no monopolies and it would be open and  
22 inclusive and competitive.



1 Q The fact that someone was a campaign  
2 contributor or supporter was not to be a factor; is  
3 that right?

4 A No.

5 Q Was it ever a factor in connection with  
6 your awarding of bond work?

7 A No.

8 Q Do you know anything about whether any  
9 underlying documents relating to Whitewater have ever  
10 been destroyed?

11 A I don't know of any.

12 Q Do you know of -- do you know whether any  
13 underlying documents relating to Madison have ever  
14 been destroyed?

15 A I don't know of any.

16 Q During the campaign or afterwards.

17 A I don't know of any.

18 MR. COHEN: Just so you don't ask it later,  
19 is the same true of the Rose Law Firm? We might as  
20 well cover them all.

21 THE WITNESS: I don't know of any. I wish  
22 I destroyed more paper over the years.

1 MR. COHEN: It would cut the burden of  
2 production down.

3 THE WITNESS: Uh-huh.

4 MR. COHEN: If you have documents you want  
5 to show us this afternoon, while you are out, you can  
6 have someone watch us with the documents, that we  
7 would look at them now so we can speed through the  
8 afternoon.

9 I made this request prior to the deposition  
10 and you declined. Now it seems like a very sensible  
11 approach, given that you are going to duck out on us  
12 for a time.

13 MR. GIUFFRA: I would just prefer not to do  
14 that, if I can.

15 MR. COHEN: It is just not fair to end up,  
16 if that's the result, trying to go --

17 MR. GIUFFRA: Part of the problem is I  
18 don't know what documents I'm going to use because I  
19 don't know what her answers are going to be. Before  
20 I give you all these documents to look at, that's the  
21 problem.

22 MR. COHEN: I can only ask you to do it if

1 you know. I accept that.

2 BY MR. GIUFFRA:

3 Q Ms. Wright, you knew Vince Foster; correct?

4 A I did.

5 Q When was the last time you saw Vince  
6 Foster?

7 A I don't know.

8 Q Did you see him on July 20, 1993, which was  
9 the day he died?

10 A No.

11 Q We have a Secret Service record that  
12 indicates you were at the White House residence on  
13 July 20, 1993. Do you know why you were there?

14 A That I was where?

15 Q At the residence of the White House on July  
16 20, 1993.

17 A I don't remember.

18 Q Did you ever discuss anything having to do  
19 with Whitewater Development Corporation with  
20 Mr. Foster?

21 A Oh, no, not unless it was in passing about  
22 the Rose Law Firm during the '92 campaign.

1 Q Did you ever discuss anything with  
2 Mr. Foster relating to something which is now known  
3 as Travelgate?

4 A No.

5 Q And you don't know anything about  
6 Travelgate?

7 A I know a lot about it from the newspapers.

8 Q But you have no direct knowledge of  
9 anything having to do with the firing of employees at  
10 the travel office?

11 A The answer is no.

12 Q Did you have any understanding as to  
13 whether Mr. Foster was working on anything relating  
14 to Whitewater prior to his death in July 1993?

15 A No.

16 Q Did you know -- do you know whether  
17 Mr. Lindsey was working on anything relating to  
18 Whitewater prior to Mr. Foster's death in July 1993?

19 A I know that at one point he was kind of the  
20 media point person for Whitewater. I don't remember  
21 juxtaposed with Vince's death.

22 Q Whitewater came up during the 1992

1 campaign; correct?

2 A Correct.

3 Q And then it sort of went away for a while.

4 When do you recall again being contacted by anyone at  
5 the White House or someone who had been involved in  
6 the campaign about Whitewater?

7 A I don't know. I do know that when the  
8 boxes were brought to Mr. Kendall's office, I went  
9 and pulled press Qs and As, so that he could review  
10 them, of stuff that we had done during the campaign.

11 Q That was late '93 that you did this?

12 A Yes. It was when they were --

13 Q When Hubbell brought them back to give them  
14 to Kendall?

15 A Yes.

16 Q Do you recall being at the White House at  
17 all during the days after Mr. Foster's death?

18 A I don't.

19 Q When did you first learn that Mr. Foster  
20 had left -- strike that.

21 When did you first learn that torn up  
22 scraps of paper were found in Mr. Foster's briefcase?

---

1 A Whatever day it was in the press.

2 Q No one called you before it was announced  
3 to the press?

4 A No.

5 Q Did anyone from the White House discuss  
6 with you anything having to do with a review that was  
7 conducted of the documents in Mr. Foster's office in  
8 the days following his death?

9 A No.

10 Q Do you know anything about that?

11 A No.

12 Q Do you know anything about a transfer of  
13 any documents -- do you know anything about the  
14 handling of documents in Mr. Foster's office  
15 following his death?

16 A Nothing.

17 Q You don't know whether any documents that  
18 were in Mr. Foster's office were taken up to the  
19 White House residence, do you?

20 A I only know from press reports anything  
21 about that.

22 Q By "that," you mean anything having to do

1 with the handling of documents in Mr. Foster's  
2 office?

3 A Correct.

4 Q Do you recall speaking to Mr. Foster while  
5 he was deputy White House counsel about any matter?

6 A Yes.

7 Q What were some of the matters you had  
8 spoken to Mr. Foster about?

9 A They weren't related to these issues.

10 Q Just generally, what were the matters that  
11 you spoke to Mr. Foster about?

12 A Possible problems around a person under  
13 consideration for a major appointment, the nanny  
14 policy of the government. I don't recall.

15 Q You left him a message in May 1993 where  
16 the "re:" was "re: Organization"?

17 MR. COLE: "Reorganization" one word, or  
18 "re" with the colon "organization"?

19 MR. GIUFFRA: "Re" with the colon  
20 "organization."

21 BY MR. GIUFFRA:

22 Q No recollection?

1 A No.

2 Q Did you speak to the First Lady within two  
3 weeks following Mr. Foster's death?

4 A Yes.

5 Q What do you recall speaking to the First  
6 Lady about?

7 A His depression.

8 Q About the fact that he had been depressed  
9 in the period leading up to his death?

10 A Correct.

11 Q Were you aware of the fact that Mr. Foster  
12 was depressed prior to his death?

13 A Yes.

14 Q Do you know what particular subjects were  
15 causing Mr. Foster to be depressed prior to his  
16 death?

17 A Particular subjects don't cause  
18 depression. He was clinically depressed. It is a  
19 chemical imbalance in the brain. He was depressed as  
20 long as I have known him.

21 MR. GIUFFRA: Why don't we take a break  
22 right now. We will resume at 1:20.



1 (Whereupon, at 12:05 p.m., the deposition  
2 was recessed, to be reconvened at 1:20 p.m. this same  
3 day.)  
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1 AFTERNOON SESSION (1:45 p.m.)

2 Whereupon,

3 BETSEY WRIGHT

4 resumed the stand and, having been previously duly  
5 sworn, was examined and testified further as follows:

6 MR. GIUFFRA: This is a big topic, and the  
7 Committee has just started doing its investigation  
8 with regard to ADFA and Lasater. I want to make sure  
9 the record is clear and the Minority staff is aware  
10 of this.

11 Today's deposition is not the only time we  
12 will look at this ADFA/Lasater thing. If it comes  
13 out during the course of the investigation, if  
14 Ms. Wright's testimony becomes essential, we would  
15 ask for it.

16 I was doing a very preliminary, very quick  
17 examination.

18 MR. COHEN: I understand your position.  
19 Obviously if you come back to us, we will deal with  
20 the request at that time. As a practical matter --

21 MR. GIUFFRA: So you understand where I'm  
22 coming from?

1 MR. COHEN: Yes. As a practical matter, I  
2 think you have exhausted Ms. Wright's particular  
3 knowledge with respect to ADFA.

4 EXAMINATION (Continued)

5 BY MR. GIUFFRA:

6 Q Ms. Wright, you don't recall being involved  
7 in any discussions about Governor Clinton's financial  
8 disclosure in connection with the '92 presidential  
9 campaign; am I right?

10 A The financial disclosure he filed as a  
11 candidate?

12 Q Yes, with the Federal Election Commission,  
13 FEC.

14 A Not the original one.

15 Q Do you recall being involved in discussions  
16 about the latter?

17 A I do, about the amended versions, but I  
18 don't remember specifically what the amendments were  
19 for or what the conversations were.

20 Q So we have exhausted the full extent of  
21 your recollection with regard to financial disclosure  
22 of Governor Clinton in connection with the '92

1 presidential campaign; correct?

2 A Correct.

3 Q Do you recall any discussions of any  
4 discrepancies between Governor Clinton's state  
5 financial disclosure form and his federal financial  
6 disclosure form? By "federal," I mean the  
7 presidential disclosure form.

8 A Do I recall --

9 Q Any discussions of discrepancies between  
10 the two disclosure forms.

11 A I know I went through to check for  
12 discrepancies. If I found any, we obviously had  
13 discussions about reconciling them.

14 Q But you don't remember any specific  
15 discrepancies that you might have identified?

16 A I don't.

17 Q You don't recall any specific conversations  
18 you might have been involved in with regard to those  
19 discrepancies?

20 A It depends on what they were, if there were  
21 some.

22 Q Do you recall any discrepancies with regard

1 to the now President's disclosure with regard to  
2 Whitewater, the state and federal disclosure?

3 A I don't.

4 Q Do you recall any discussions involving  
5 discrepancies between financial disclosure forms,  
6 state and federal, and the Clintons' taxes, income  
7 tax returns?

8 A Do I recall discussions?

9 Q Yes.

10 A Yes. I mean, I don't remember the  
11 specifics. I know that we were trying to utilize --  
12 bring all documents into consistency.

13 Q But you don't recall any specific  
14 discussions about particular discrepancies between  
15 the tax returns and the disclosure forms?

16 A I know we had conversations. I don't  
17 remember what they were substantively.

18 Q Do you know who would have been involved in  
19 those conversations?

20 A Well, I think Mr. Jim Hamilton was in  
21 charge of the filling out and filing of them. So he  
22 would have been.

1 Q Do you recall who else might have been  
2 involved? Mr. Lindsey, for example?

3 A Oh, we probably would have kept him  
4 apprised of anything, yes.

5 Q But you don't recall him participating in  
6 any discussions? That's Mr. Lindsey.

7 A Well, he was hardly around. If he  
8 participated, it was on phone discussions. He was  
9 rarely present in the headquarters. I did talk to  
10 the bookkeeper about trying to discover whether  
11 something was inconsistent.

12 Q Who was the bookkeeper?

13 A Yoly Redden.

14 Q Do you recall anything specifically about  
15 your conversation with Ms. Redden?

16 A No.

17 Q Were you aware -- did you have any role in  
18 the retention of David Kendall and Williams &  
19 Connolly to represent the Clintons in connection with  
20 Whitewater or Madison matters?

21 A No.

22 Q Were you aware of the retention of

1 Mr. Kendall?

2 A After the fact, yes.

3 Q I assume -- did you ever meet with  
4 Mr. Kendall to discuss what you knew about Whitewater  
5 or Madison matters?

6 A I went to his office and went through my  
7 boxes and pulled anything I could that was related.

8 Ask me that question again.

9 MR. GIUFFRA: Let's have the question read  
10 back.

11 (The reporter read the record as requested.)

12 THE WITNESS: Yes.

13 BY MR. GIUFFRA:

14 Q When do you recall speaking with  
15 Mr. Kendall?

16 A I have spoken to him on a number of  
17 occasions, and this is one of the rarer times when I  
18 would use Whitewater and Madison in your big frame of  
19 reference, because I don't remember narrowly or  
20 broadly. But I remember trying to tell him who I  
21 thought would be helpful to him on various aspects as  
22 he familiarized himself.

1 Q Do you recall when you would have had the  
2 conversation with Mr. Kendall, these conversations  
3 with Mr. Kendall?

4 A I guess I don't feel like they are over.

5 Q So you are still meeting with Mr. Kendall?

6 A Well, I don't meet with him anymore, and I  
7 don't talk to him as often.

8 Q Do you recall who you might have told  
9 Mr. Kendall would be helpful in connection with  
10 Whitewater-Madison related issues and specifically  
11 which issues that persons would be helpful with  
12 regard to?

13 A Well, I think just the obvious ones, and  
14 no, I don't remember who I said. I can only guess  
15 that I was trying to explain --

16 MR. COHEN: If you remember, please tell  
17 him. If you don't, don't guess.

18 THE WITNESS: I don't know specifically.

19 MR. COHEN: The laundry list of people who  
20 were involved we could probably all construct.

21 BY MR. GIUFFRA:

22 Q Were you aware of the fact that Mr. Kendall



1 had a meeting on November 5, 1993 with Mr. Nussbaum,  
2 Mr. Lindsey, Mr. Lyons, Mr. Eggleston and Mr. Kennedy  
3 and Mr. Engstrom?

4 A Is this the one that has been -- is this  
5 the one that the Bill Kennedy notes --

6 Q The now famous meeting.

7 A I am aware of it only because you made it  
8 famous.

9 Q You were not aware of a meeting prior to  
10 when it became an issue during the course of our  
11 investigation?

12 A No.

13 Q And no one at the meeting discussed what  
14 transpired at the meeting with you in November of  
15 1993?

16 A No.

17 Q Let me ask you a question. Did you ever  
18 speak to Mr. Nussbaum about Whitewater-Madison issues  
19 on any occasion?

20 A No.

21 Q Do you know Neil Eggleston?

22 A Yes.

1 Q Did you ever speak to him about  
2 Whitewater-Madison issues?

3 A I don't know.

4 Q Is it possible that you spoke to  
5 Mr. Eggleston about Whitewater-Madison issues?

6 A Yes, it is possible. I don't know.

7 Q You just don't recall any conversations  
8 with Mr. Eggleston?

9 A I do.

10 Q You do recall a conversation with  
11 Mr. Eggleston about Whitewater or Madison issues?

12 A I don't know what it was about. I mean, I  
13 do know what it was about. Was it about  
14 Whitewater --

15 MR. COHEN: We are not going to talk about  
16 this in front of him.

17 MR. GIUFFRA: Why don't you speak with your  
18 lawyer about this.

19 (Recess.)

20 BY MR. GIUFFRA:

21 Q Ms. Wright, do you recall any conversations  
22 that you had with Mr. Eggleston about

1 Whitewater-Madison issues?

2 A No.

3 Q Do you recall any conversations you had  
4 with Mr. Eggleston about any issue?

5 A Yes.

6 Q What issues would you have had  
7 conversations with Mr. Eggleston about?

8 A I gave him some documents.

9 Q When did you give Mr. Eggleston documents?

10 A I don't remember the date. When the  
11 securities department of Arkansas released all of its  
12 files, I got a set of them flown up to me, and I  
13 provided them to him and to Mr. Kendall, and he came  
14 by my house and picked them up.

15 I don't remember talking to him about  
16 anything else. He might have also been in some  
17 meetings I went to at the White House, but I don't  
18 remember talking to him. He might have been in the  
19 room.

20 Q Let's go back. Were these documents at the  
21 Arkansas Securities Commission publicly released --

22 A To the press.

1 Q About Whitewater and Madison?

2 A Yes.

3 Q Or ADFA?

4 A No.

5 Q It would be Whitewater-Madison?

6 A Right.

7 Q Probably Madison actually; is that right?

8 A Whatever their files were.

9 Q It has to do with the Rose Law Firm's  
10 representation of Madison?

11 A I think that their documents were  
12 everything they had ever done with Madison.

13 MR. COHEN: There was a public release of  
14 documents.

15 BY MR. GIUFFRA:

16 Q Do you recall approximately when this was?

17 A No.

18 Q Was it during the campaign?

19 A No.

20 Q Post-inauguration? End of the year 1993?

21 A I don't remember.

22 Q After Mr. Foster died or before?

1 A I don't remember.  
2 MR. COHEN: It is a matter of public  
3 record. I can get you the date.  
4 BY MR. GIUFFRA:  
5 Q You recall getting the documents and then  
6 Neil coming out to your house and picking them up?  
7 A Correct.  
8 Q You may also have participated in some  
9 meetings with Mr. Eggleston at the White House;  
10 correct?  
11 A He may have been in some of the meetings I  
12 participated in.  
13 Q Are you aware of something which was called  
14 a Whitewater response team which was organized at the  
15 White House toward the latter part of 1993?  
16 A That rings a bell.  
17 Q Did you participate in those meetings?  
18 A I don't think so.  
19 Q The meetings that you attended at the White  
20 House, do you recall who attended them?  
21 A John Podesta, Bruce Lindsey. One time  
22 Mr. Cutler. Once I think Dee Dee Myers was there.

---

1 Q Was Mr. Cutler at all the meetings or did  
2 he come to just one?  
3 A He went just to one that I recall.  
4 Q This would have been a meeting sometime in  
5 the spring of '94; correct?  
6 A It would have been after he had become the  
7 counsel.  
8 Q But you attended meetings prior to when  
9 Mr. Cutler became White House counsel; right?  
10 A I don't remember.  
11 Q Do you recall how many meetings you might  
12 have gone to at the White House?  
13 A Two or three.  
14 Q Two or three about Whitewater?  
15 A I don't know if it was about Whitewater.  
16 It was about something on the Arkansas record that  
17 was under attack again.  
18 Q Do you recall anything about those  
19 meetings?  
20 A No.  
21 Q You just testified that you have been to  
22 you think about three meetings with regard to

1 Whitewater-Madison at the White House. Do you have a  
2 White House pass?

3 A No.

4 Q So you have to wave in every time you go  
5 in?

6 A Yes.

7 Q With what frequency since January 30 --  
8 strike that.

9 Between January 30, 1993 -- January 20,  
10 1993 and August 8, 1994, with what frequency were you  
11 going to the White House? By "White House," I mean  
12 both the West Wing, EOB, Old Executive Office  
13 Building and the residence. Weekly, daily, monthly?

14 A It varied. I was very much involved in  
15 NAFTA and would go for NAFTA support meetings,  
16 sometimes several times a week. I did client  
17 meetings sometimes over there. I guess there were  
18 periods of time where I was going two or three times  
19 a week. I wasn't seeing the Clintons necessarily.

20 Q What frequency would you estimate you would  
21 have seen the Clintons between January 20, '93 and  
22 August 8, '94?

1 A I don't know.

2 Q Monthly? Weekly?

3 A Yes. Every month or two.

4 Q Have you ever reviewed Whitewater or  
5 Madison documents with Mrs. Clinton?

6 A I have reviewed drafts of press answers on  
7 those questions with Mrs. Clinton.

8 Q Was it your practice to normally review --  
9 strike that.

10 Was it your practice to review press  
11 answers with Mrs. Clinton before they were released?

12 A If they pertained to her.

13 MR. COHEN: This we have been over. I just  
14 wanted to point that out so we don't go over it  
15 again.

16 MR. GIUFFRA: I apologize. If I do that,  
17 it is only because --

18 MR. COHEN: I understand. Keep going.

19 THE WITNESS: It is only because what?

20 Because you forgot?

21 MR. COHEN: No. Because he wants to make  
22 sure he got it. Go ahead.



1 THE WITNESS: He does so much of this.

2 BY MR. GIUFFRA:

3 Q Have you ever prepared responses for  
4 Mrs. Clinton or been part of the process of preparing  
5 responses for the Whitewater-Madison questions since  
6 January 20, 1993 for Mrs. Clinton?

7 A I don't think so.

8 Q For example, are you aware that -- I  
9 believe it was April 1994 -- Mrs. Clinton gave a  
10 press conference in, I believe it was the east room  
11 at the White House, and it was about Madison and  
12 Whitewater. Do you recall that press conference?

13 A I do.

14 Q Did you play any role in preparing  
15 Mrs. Clinton for that press conference?

16 A I did not.

17 Q Since January 20, 1993, have you ever  
18 brought any documents to the White House that  
19 pertained to Whitewater or Madison? By "White  
20 House," I mean the entire complex.

21 A No.

22 Q Have you ever sent any documents to the

1 White House?

2 MR. COLE: Other than what she has already  
3 testified to with regard to Mr. Eggleston? But that  
4 would be sent to the White House under a reasonable  
5 interpretation of what that means.

6 BY MR. GIUFFRA:

7 Q That's fine. Other than the Eggleston  
8 instance.

9 A No.

10 Q With regard to Mrs. Clinton again -- strike  
11 that -- Mrs. Clinton, you would have reviewed  
12 statements during the campaign. You don't think you  
13 reviewed responses after the inauguration; correct?  
14 That's the testimony; is that right?

15 MR. COHEN: Is that a question or a  
16 summary?

17 MR. GIUFFRA: It is a summary. I want to  
18 make sure I am summarizing it accurately.

19 BY MR. GIUFFRA:

20 Q Is that right?

21 A That's right.

22 Q At no time have you ever reviewed

1 underlying Whitewater documents with Mrs. Clinton?  
2 By that I would mean, for example, the letter that  
3 Mrs. Clinton sent to Beverly Bassett Schaffer with  
4 regard to the issuance of preferred stock in 1985.

5 A That's correct.

6 Q So you personally have never reviewed  
7 underlying documents with regard to Whitewater or  
8 Madison?

9 A That's correct.

10 Q It was always either done before you got  
11 into the picture, done before you got into the  
12 picture or you relied on other people to do that; is  
13 that correct?

14 A That's correct.

15 Q Have you ever discussed -- strike that.

16 During the campaign, did you review  
17 Whitewater responses with Governor Clinton?

18 A I don't know. If it was particularly new  
19 or didn't want him to be blind-sided, I might have  
20 furnished something to him before we distributed it.

21 MR. GIUFFRA: Read back the answer,  
22 please.

1 (The reporter read the record as requested.)

2 BY MR. GIUFFRA:

3 Q Do you have any recollection of furnishing  
4 something to Governor Clinton before you distributed  
5 it?

6 A Obviously I dealt with an awful lot of  
7 issues --

8 MR. COLE: I understood the line of  
9 questioning to go to original Whitewater documents  
10 and her answer to go to things including press  
11 responses.

12 MR. GIUFFRA: No. Let's be precise. One  
13 of the difficulties we have in trying to do it as  
14 fast as possible is sometimes we are not as precise  
15 as we would be otherwise.

16 BY MR. GIUFFRA:

17 Q With regard to responses of the Clinton  
18 campaign to press inquiries, did you ever review any  
19 of those with Governor Clinton relating to Whitewater  
20 or Madison?

21 A I frequently submitted to him draft  
22 responses. I can't tell you for sure whether they

1 did or did not include things regarding Whitewater  
2 and Madison.

3 Q Do you ever recall showing any original  
4 documents to Governor Clinton?

5 A I don't recall ever seeing any Whitewater  
6 or Madison original documents.

7 Q After Governor Clinton became President,  
8 did you have any discussions with him -- strike that.

9 After Governor Clinton became President,  
10 did you assist him in any way preparing responses to  
11 press inquiries or any other inquiries regarding  
12 Madison-Whitewater?

13 THE WITNESS: Can I talk to you, please?  
14 (Witness conferred with counsel.)

15 THE WITNESS: Can I hear the question  
16 again, please.

17 MR. GIUFFRA: Play it back.

18 (The reporter read the record as requested.)

19 MR. COHEN: This is going to be a very  
20 broad construction of that, but so we don't go  
21 through a torturous analysis, she can go ahead.

22 MR. GIUFFRA: Off the record.

1 (Discussion off the record.)

2 THE WITNESS: I had a conversation with the  
3 Clintons when we were all trying to figure out what  
4 on earth David Hale was talking about. It wasn't  
5 necessarily to respond to any particular inquiry, but  
6 we were trying to figure out anything that he could  
7 possibly be talking about.

8 BY MR. GIUFFRA:

9 Q When would this conversation have been?  
10 Sometime in the fall of 1993 or earlier? He was --  
11 the Governor was President when you had this  
12 conversation?

13 A Yes.

14 Q Was it before or after Foster's death?

15 A I think it was after.

16 Q Do you know David Hale?

17 A I have met him.

18 Q How many times?

19 A Maybe once, twice.

20 Q When do you recall meeting him?

21 A I don't know.

22 Q He was a figure in Arkansas politics?

1 A No; he was a nothing. He has clearly  
2 convinced some people he was. But he was a nothing.  
3 He was a sleazebag.

4 Q Did he ever meet the Governor?

5 A Of course.

6 Q When did he meet the Governor that you can  
7 recall?

8 A Political events around the state. He did  
9 have some relatives who were some decent people and  
10 supporters, one of whom held a major position in one  
11 of our departments.

12 Q Who was that?

13 A John Hale. I think he is deceased now.

14 Q What department was that?

15 A Finance and administration.

16 Q Do you recall David Hale ever visiting the  
17 Governor's office at the state capital?

18 A I don't recall.

19 Q Do you recall him ever visiting the  
20 Governor's mansion?

21 A I don't recall.

22 Q Did you ever see Governor Clinton and David

---

1 Hale together in the same location?

2 A Alone?

3 Q Or with other people.

4 A Listen, David Hale is about the most  
5 insignificant forgettable character in the world. So  
6 I don't remember much about him at all except he was  
7 a nothing.

8 Q Did the Governor when you met with him  
9 sometime in I think 1993 -- is that fair?

10 A I don't know.

11 Q The President. Excuse me. What did the  
12 President say to you about David Hale, his  
13 interactions with David Hale, if anything?

14 A We were just all collectively asking the  
15 questions, what could he be talking about, what kinds  
16 of loans could he be talking about, did he have  
17 something that had loans.

18 Q Who was present --

19 A We were just trying to remember anything  
20 that linked to David Hale.

21 Q Who was present at this meeting?

22 A It was a phone conversation between the



1 President, the First Lady and myself.

2 Q About how long was the telephone  
3 conversation?

4 A Maybe 30, 40 minutes.

5 Q And who advised the President that David  
6 Hale was making allegations with regard to loans and  
7 the President?

8 MR. COHEN: If you know.

9 THE WITNESS: Beats me.

10 BY MR. GIUFFRA:

11 Q Did he indicate Mr. Lindsey advised him of  
12 this fact?

13 A No.

14 Q When was the first you heard David Hale was  
15 making allegations about the President?

16 A Calls I got from reporters, which preceded  
17 this conversation with the President, by the way.

18 Q Were you the person that brought this to  
19 the President's attention?

20 A No.

21 Q He was aware of the issue when you spoke to  
22 he and Mrs. Clinton; correct?

1 A Yes.

2 Q And did they call you or did you call them?

3 A They called me.

4 Q What do you recall more specifically about  
5 this telephone conversation with the President and  
6 Mrs. Clinton about David Hale?

7 MR. COHEN: Is there anything else other  
8 than what you said?

9 THE WITNESS: That's it.

10 BY MR. GIUFFRA:

11 Q Where were you at the time of this phone  
12 call?

13 A At my house.

14 Q In Washington, D.C.?

15 A Uh-huh, yes.

16 Q Do you recall any other discussions since  
17 January 20, 1993 with President Clinton about  
18 Whitewater-Madison-related matters?

19 A I had one conversation with him on a topic  
20 which probably has nothing to do with a strict  
21 definition of Whitewater-Madison-related matters,  
22 though it is synonymous in my mind, and that is how

1 on earth was I going to pay for the legal bills  
2 associated with this.

3 Q Any other conversations that you can  
4 recall?

5 A That's the only one I can recall.

6 MR. COLE: Before we leave this  
7 conversation regarding David Hale --

8 MR. GIUFFRA: I know what you want to ask.  
9 That's what I'm going to get into.

10 BY MR. GIUFFRA:

11 Q What did President Clinton say to you about  
12 Mr. Hale's allegations?

13 MR. COLE: You are on the right track.

14 THE WITNESS: We couldn't figure out what  
15 he was talking about.

16 BY MR. GIUFFRA:

17 Q Did the President indicate he believed  
18 these allegations were false?

19 A We knew they were false. We all knew they  
20 were false. We couldn't figure out what he was  
21 hanging it on though.

22 Q Did the President ever indicate to you that

1 he had ever met Jim McDougal and David Hale on any  
2 occasion together?

3 A No. He asked me whether I could remember  
4 if he had ever met with them.

5 Q Did the President indicate to you whether  
6 he had ever met with David Hale?

7 A Did I know whether he ever had?

8 Q Did he indicate to you whether he had ever  
9 met with him?

10 A He clearly couldn't remember any such  
11 meeting.

12 Q He couldn't remember anything about any  
13 contacts he might have had with David Hale; correct?

14 A Other than the informal running-into-him  
15 context.

16 Q Is the President somebody who has a good  
17 memory?

18 A Yes.

19 Q Are you someone who has a good memory?

20 A On some things, not on numbers. Anything  
21 that has numbers I don't remember.

22 Q Is Mrs. Clinton someone who has a good

1 memory?

2 A I don't know.

3 Q Do you recall anything more about your  
4 conversation with the President and Mrs. Clinton  
5 about David Hale, just anything?

6 A That's it. We were just in total  
7 perplexity about what on earth this guy was talking  
8 about.

9 Q And you knew that the allegations related  
10 to a \$300,000 loan that had been made to an entity  
11 that was controlled by Susan McDougal; is that right?

12 A Actually, I don't think we knew that much  
13 about it at that point. But it was some loan that he  
14 thought Bill -- he was claiming Bill got him to make  
15 or something like that.

16 Q When did you first learn of an  
17 investigation of Mr. Hale, if you know?

18 A I would only have learned of it from the  
19 press.

20 Q Did there come a time when you learned that  
21 the RTC was investigating Madison?

22 MR. COLE: That's a very difficult question

---

1 if you don't distinguish between RTC regular  
2 examinations which they do of all savings and loans  
3 or are you talking in terms of civil liability?

4 BY MR. GIUFFRA:

5 Q Do you recall any investigations by the RTC  
6 with regard to Madison relating to civil or criminal  
7 liability?

8 MR. COHEN: Are we talking about Jay  
9 Stephens?

10 MR. GIUFFRA: Let's go back.

11 MR. COHEN: Is this the RTC referral  
12 issue?

13 MR. GIUFFRA: Yes.

14 MR. COHEN: Let's tag the issue so we  
15 know.

16 BY MR. GIUFFRA:

17 Q Did there come a time when you learned of  
18 an investigation by the RTC that ultimately led to  
19 certain criminal referrals being made to the  
20 Department of Justice?

21 A Yes.

22 Q When did you learn of this investigation,

1 RTC investigation?

2 A Well, the first time I heard about it was  
3 in the fall of 1992, and at that point I regarded  
4 it -- there was no way to verify it. So, I didn't  
5 know whether it was true or not. I now know that it  
6 was.

7 But in about September or October of '92,  
8 some RTC official at a cocktail party in Kansas City  
9 told somebody who supported Bill Clinton from  
10 California who was visiting in town that they had  
11 just sent a criminal referral up to the prosecutor in  
12 Little Rock. And that is all I was given over the  
13 phone. I went scrambling trying to find out what on  
14 earth they were talking about.

15 Q Who was the person that contacted you?

16 A A friend of this person from California who  
17 was at the cocktail party with somebody from the  
18 RTC.

19 Q Who was the person that contacted you? The  
20 name?

21 A I don't remember the name.

22 Q So, there was a person from California who

1 called you; correct?

2 A A friend of a person from California.

3 Q A friend of a person from California.

4 Where does the friend reside?

5 A I think in California.

6 Q So a friend of a person you knew in  
7 California called you --

8 A I didn't know them. I was fairly high  
9 visibility as somebody who was dealing with Bill  
10 Clinton's person and personal defense. So, I didn't  
11 necessarily have to know them.

12 Q They called you, and this person, was it  
13 the friend of the person you knew who was at the  
14 cocktail party in Kansas City? I'm getting  
15 confused.

16 A The person at the cocktail party did not  
17 call me.

18 Q The cocktail party was in Kansas City?

19 A Correct.

20 Q And at the cocktail party some RTC official  
21 said there had been criminal referrals made or a  
22 criminal referral --



1 A Involving the Clintons.

2 Q This person in Kansas City, was that the  
3 same person who was in California or was it a  
4 different person?

5 A This is much ado about nothing, since the  
6 referral never came to light. But the first time I  
7 ever heard of a criminal referral regarding Madison  
8 Guaranty was when I received a call from a guy in  
9 California. He had been told by another person in  
10 California that this other person in California had  
11 returned from Kansas City on some business where he  
12 had attended a cocktail party where a person from RTC  
13 had told him that there had just been a criminal  
14 referral regarding a savings and loan official in  
15 Arkansas and it involved the Clintons. That's the  
16 totality of what I was told.

17 Q This phone call occurred before the  
18 election?

19 A Absolutely.

20 Q So, it was a September-October phone call?

21 A Correct.

22 Q You were in the campaign headquarters when

---

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1 you got the call?

2 A Correct.

3 Q Who did you advise of this phone call at  
4 the campaign?

5 A Probably nobody.

6 Q You never spoke to Mr. Lindsey about the  
7 fact that there might be this criminal referral  
8 naming the Clintons as witnesses?

9 A I don't know why I would have.

10 Q Did you --

11 MR. COHEN: You understood it because you  
12 sort of stopped the question; the naming them as  
13 witnesses didn't come from her.

14 MR. GIUFFRA: Just mentioning the  
15 Clintons.

16 BY MR. GIUFFRA:

17 Q Did you speak to anyone, anyone in the  
18 campaign, outside the campaign, anyone, about this  
19 telephone call you had received regarding an RTC  
20 criminal referral mentioning the Clintons?

21 A I called a friend who was a criminal  
22 defense attorney.

1 Q Who was that?

2 A And I asked him --

3 Q Who was that friend?

4 A Let me finish. I asked him whether there  
5 was any way to find out whether there was any grand  
6 jury consideration of anything that we could know,  
7 and he told me no, because those things would always  
8 be in secret. So there really wasn't any way for me  
9 to find out if there was anything there or not.

10 His name was Bill Wilson. He was an  
11 attorney in Little Rock.

12 Q Was Bill Wilson involved in your efforts in  
13 terms of defense work?

14 A No. I think that is the only time I ever  
15 talked to him.

16 Q Who is Bill Wilson?

17 A He was a criminal defense attorney in  
18 Little Rock at that time.

19 Q Now he is a federal judge?

20 A Correct.

21 Q He was a law partner at the Wright, Lindsey  
22 firm with Mr. Engstrom?

1 A No. Mr. Engstrom is not at Wright,  
2 Lindsey.

3 Q Is that where Mr. Wilson was?

4 A At Wilson, Engstrom, whatever it was. He  
5 has now left that firm. It is a different name.

6 Q Did you regularly speak to -- strike that.  
7 Did you speak with Mr. Wilson about defense  
8 matters during the campaign?

9 A No, I didn't. Fortunately I didn't know a  
10 whole lot of criminal defense lawyers. I knew  
11 Mr. Wilson represented Roger Clinton. Therefore I  
12 knew he was someone who practiced criminal defense  
13 work in federal courts. So I just called to say is  
14 there a way to know, is there a public record on  
15 this. The answer was no, there isn't, and that was  
16 it.

17 Q Did you speak to anyone else other than  
18 Mr. Wilson about the allegation of an RTC --

19 A Not that I can remember.

20 Q Have you ever spoken --

21 A To tell you the truth, the words "RTC"  
22 weren't mentioned. The person was RTC, but I didn't

1 make the connection that it was an RTC referral at  
2 that time.

3 Q You had no other conversation with anyone  
4 else about -- strike that.

5 Did there come a time when you discussed  
6 the fact that this communication from California with  
7 regard to criminal referrals regarding the Clintons  
8 and an S&L person with anyone other than Mr. Wilson?  
9 You identified that contact. Was there anyone else?

10 A I don't think I did. I can't recall doing  
11 so. Usually when I couldn't verify things I didn't  
12 proceed on them. I did think that it was highly  
13 improper for an official to be talking about a  
14 criminal referral at a cocktail party. With that in  
15 mind, I did once mention it to Mr. Kendall after he  
16 had been hired. But it was so cold and so long ago  
17 that it was gone.

18 Q Did you ask Mr. Wilson to take any actions  
19 with regard to the criminal referral?

20 A No. I asked him whether there was a way to  
21 find out about it.

22 Q Do you know whether Mr. Wilson contacted

---

1 anyone with regard to this?

2 A He said there wasn't any way to know  
3 anything about it.

4 Q Other than this communication with the  
5 person from California about a criminal referral  
6 during the campaign, did you have any other  
7 communication with anyone about criminal referrals?

8 A I remembered I asked Hillary if she was  
9 aware of any friend of theirs who was in a savings  
10 and loan business who might be under criminal  
11 investigation, and we couldn't think of anybody.

12 Q This was a conversation you had with  
13 Mrs. Clinton during the '92 campaign? Was it -- the  
14 same time you spoke to Mr. Wilson you spoke to  
15 Mrs. Clinton; correct?

16 A I mean, it wasn't at the same time, but it  
17 was in that time period.

18 Q Prior to the election? Prior to the '92  
19 election?

20 A Yes.

21 Q Did you speak to anyone else?

22 A I don't remember anybody else. This is not

1 anything I have thought about for a long time,  
2 frankly.

3 Q Do you think you spoke to Ms. Lynch about  
4 it, about the criminal referral?

5 A I don't remember doing so.

6 Q Did you have staff meetings with the other  
7 members of your defense group during the campaign in  
8 which you would discuss --

9 A More team meetings.

10 Q Did you have team meetings to discuss the  
11 allegations that were being made?

12 A Yes.

13 Q You don't recall raising this issue of the  
14 criminal referral at the team meeting?

15 A I don't remember doing so. I didn't have  
16 enough to go on. It is only in hindsight that I  
17 realized the real significance of it.

18 Q Do you know Paula Casey?

19 A I do.

20 Q How do you know Paula Casey?

21 A Democratic party activities.

22 Q In Arkansas?

1 A Correct.

2 Q What do you know about the appointment of  
3 Paula Casey?

4 A I'm sorry?

5 Q What do you know about the appointment of  
6 Paula Casey as U.S. Attorney?

7 A Nothing.

8 Q Did you have any role in the appointment of  
9 her?

10 A None.

11 MR. COLE: Do you know whether Governor  
12 Clinton had any role in the appointment of Paula  
13 Casey as U.S. Attorney?

14 THE WITNESS: Does the President do the  
15 appointment?

16 MR. COLE: Other than the obvious.

17 THE WITNESS: My assumption was that since  
18 she had worked for Senator Bumpers that it was a  
19 courtesy appointment for Senator Bumpers. That was  
20 my assumption. While we had known Paula, she had  
21 never been that closely involved with the Clintons on  
22 their campaigns.



1 BY MR. GIUFFRA:

2 Q Do you know Brent Bumpers?

3 A I have met him, and he makes very good  
4 cookies. Have you had them, the Brent and Sam  
5 cookies?

6 Q Have you ever spoken to anyone --

7 A It is his business. That's mainly how I  
8 know him.

9 Q Have you ever spoken to Mr. Bumpers about  
10 anything having to do with Whitewater or Madison or  
11 David Hale, Brent Bumpers?

12 A No.

13 Q Have you ever spoken to Senator Bumpers  
14 about anything having to do with Whitewater, Madison  
15 or David Hale?

16 A I don't think so.

17 Q Have you ever spoken to Ms. Casey about  
18 anything having to do with Whitewater, Madison or  
19 David Hale?

20 A Never.

21 Q Let me show you a document, Bates number  
22 S 7804. This is a Bruce Lindsey call schedule that

1 we received dated December 2, 1993.

2 Does this call schedule refresh your  
3 recollection of a call that you made to Mr. Lindsey?  
4 (Witness examined the document.)

5 A What is this trying to say? I left this  
6 message?

7 Q According to this call schedule it says  
8 "re: David Kendall's, Jim Lyons' and files."

9 A When was Mr. Kendall hired?

10 Q I believe he was hired sometime in November  
11 of 1993.

12 MR. COHEN: The question is does it refresh  
13 your recollection.

14 THE WITNESS: When did my boxes get moved  
15 to Kendall's office?

16 BY MR. GIUFFRA:

17 Q I don't know. Do you know when the boxes  
18 were moved to Kendall's?

19 A My boxes?

20 Q Yes.

21 A I don't.

22 Q The boxes that were moved -- the boxes were

1 moved by Mr. Hubbell, not by you; is that right?  
2 A That's correct.  
3 Q The boxes were not in your possession?  
4 A I always thought they were my boxes. They  
5 were my files.  
6 Q Have you ever provided any documents to  
7 Mr. Kendall yourself?  
8 A Oh, yes.  
9 Q What documents have you provided to  
10 Mr. Kendall?  
11 A Could we finish one subject before we go to  
12 another one? I feel zigzagged here.  
13 MR. COHEN: There is a question that she  
14 hasn't answered which is does that call refresh her  
15 recollection about any conversations with Bruce  
16 Lindsey about files and Jim Lyons. Does it refresh  
17 your recollection?  
18 THE WITNESS: Not of the specific  
19 conversation.  
20 BY MR. GIUFFRA:  
21 Q Generally?  
22 A Generally it probably was about my files

1 going to Kendall's office, and it probably was a  
2 suggestion that they get Jim Lyons' files to  
3 Kendall's office.  
4 Q When you say your files, are you saying the  
5 files that Mr. Hubbell had?  
6 A Correct, the boxes that I had taken out of  
7 my office at the headquarters.  
8 Q Did you ever take documents that were in  
9 your possession, and by that I mean home or at work,  
10 and give them to Mr. Kendall?  
11 A Yes.  
12 Q When did you do that?  
13 A I did it once in early January, as I have  
14 reported to you already.  
15 Q That's the box you got at the storage  
16 facility?  
17 A Correct.  
18 Q In Little Rock in January '94.  
19 A Yes.  
20 Q What else?  
21 A In responding to Independent Counsel,  
22 combing through stuff at my house, obtaining

1 information, transferring stuff to Mr. Kendall  
2 generally through my lawyer.

3 I think that before I had you, Mr. Cohen, I  
4 might have transferred -- I made copies of the  
5 appointments files of Beverly Bassett Schaffer when I  
6 was in Little Rock that time and in January of '94,  
7 and I gave him what I had copied at that time. There  
8 might have been two or three other sheets of paper.

9 Q Do you recall what those other sheets of  
10 paper were?

11 A They are pretty much the documents that we  
12 forwarded you this week that you had already received  
13 from Mr. Kendall.

14 Q Were those documents you maintained at home  
15 or were those documents at the storage facility in  
16 Little Rock?

17 A They had been at the storage facility.  
18 They had come to me at my home.

19 Q When did you remove documents from the  
20 storage facility and take them to your home? This is  
21 Little Rock home or Washington home?

22 A Washington home.

1 Q When did you do that?

2 A I went to Little Rock in January of '94 and  
3 identified a number of boxes and assorted documents  
4 to be shipped to me on finance, political finance  
5 stuff, as I told you before.

6 Q Those documents were shipped to you?

7 A They were shipped to me in D.C. at my  
8 office. Then I took them to my house. Then I hired  
9 a lawyer. And then I took them to his office.

10 Q About how many boxes of documents did you  
11 have shipped to you?

12 A 11 in that batch. Another two or three a  
13 few days later. That was some information I called  
14 and said by the way, add to the shipment the  
15 following stuff that is probably in the following  
16 boxes.

17 Q And who asked you to go -- is this again  
18 things you did of your own accord?

19 A Correct.

20 Q Did you advise Mr. Kendall you would be  
21 going to Little Rock to look through the boxes in the  
22 storage facility that he might need?

1 A No, that's not the way I did it.

2 Q This is something you did on your own.

3 Could we just --

4 A We were at that point furnishing or had

5 furnished to the Justice Department documents.

6 Obviously, as I noticed anything else that I thought

7 was remotely related, I made note of it.

8 (Pause.)

9 Q In order to get into the storage facility,  
10 you contacted someone from the Democratic National  
11 Committee headquarters in Little Rock?

12 A Yes.

13 MR. COHEN: Who did you contact?

14 THE WITNESS: Susie Whittaker.

15 BY MR. GIUFFRA:

16 Q Who went over with you to the storage  
17 facility?

18 A Becky Vincent.

19 Q Who was Susie Whittaker?

20 A She was the assistant press secretary in  
21 the Governor's office.

22 Q What did you tell her?

1 A That I was going to get the finance files  
2 and bring them back to Washington.

3 Q You did this of your own accord and not on  
4 anyone's instructions?

5 A I didn't do it on anyone's instructions. I  
6 told a bunch of people I was going to do it because I  
7 was pretty tired of not having what I needed.

8 Q Who did you tell?

9 A I told Bruce. I told John Podesta. I told  
10 David Kendall because I told him I was bringing them  
11 to his office for storage.

12 Q Anyone else?

13 A That's all I remember right now.

14 MR. GIUFFRA: Can we take a one-minute  
15 break just for a second?

16 THE WITNESS: Absolutely.

17 (Recess.)

18 BY MR. GIUFFRA:

19 Q Was there a meeting at which a decision was  
20 made that you would go to Little Rock to look for  
21 documents that might be necessary to respond to  
22 investigatory subpoenas and also press inquiries?



1 A No.

2 Q Again, you did this on your own accord and  
3 you told Lindsey, Kendall that you would be doing it;  
4 correct?

5 A Correct.

6 Q Do you know if Mr. Kendall ever went out to  
7 the storage facility to look for documents?

8 A Yes.

9 Q By the way, when you got the documents from  
10 the storage facility, you took the originals of  
11 whatever was in the files; right?

12 A Of the finance records.

13 Q You took everything with you?

14 A Yes.

15 Q And then Mr. Kendall ultimately got them  
16 from you; is that correct?

17 A Got what from me?

18 Q After you got the documents from Little  
19 Rock, you brought them to your office first; right?

20 A Uh-huh.

21 Q That was sometime in January '94?

22 A Yes.

1 Q And then there were a subsequent two or  
2 three boxes and then you brought them home?

3 A Yes.

4 Q Was that within the same time frame?

5 A Yes.

6 Q Do you recall when you might have gone to  
7 Little Rock?

8 A Yes. I went the day before Virginia  
9 Kelly's funeral.

10 Q You spent one day at the warehouse?

11 A No. I spent two or three days.

12 Q Did anyone assist you?

13 A Not really. Becky was out there, and if I  
14 wanted not to take an original, she would make the  
15 copy and then I would show her what I wanted reboxed  
16 and shipped to me.

17 Q Was there a copier out at the storage  
18 facility?

19 A Yes.

20 Q And did you -- it was just the two of you  
21 that were out there at the storage facility. Were  
22 there any other witnesses to your review of the

1 documents in the storage facility?

2 A No.

3 Q Did you destroy any documents in the course  
4 of the review process?

5 The answer is no?

6 A No.

7 Q Do you know whether anyone else has ever  
8 destroyed any -- strike that.

9 MR. COHEN: She has already answered I was  
10 going to say.

11 BY MR. GIUFFRA:

12 Q Did Ms. Whitaker have to get permission  
13 from anyone to let you into the storage facility?

14 A She probably did.

15 Q Do you know who she contacted?

16 A Probably Bruce Lindsey and/or John  
17 Tisdale.

18 Q Do you know that for a fact or is that an  
19 assumption you are making?

20 A It is a fact.

21 Q This process, did it begin the three days  
22 before Ms. Kelly's funeral or was it her funeral and

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1 then a couple days after her funeral?

2 A I made the plans to go down, and she died  
3 just before I left Washington. But I went on, and I  
4 did work. The day of the funeral I didn't work, I  
5 went to the funeral, and then I came back and did  
6 some work, warehouse work.

7 Q Did you have the boxes shipped -- basically  
8 how soon after you finished reviewing the documents  
9 were the boxes shipped?

10 A They probably shipped them a couple of days  
11 later.

12 Q How long were the boxes in your house -- at  
13 your office?

14 A Not long.

15 Q Maybe a week or two?

16 A Oh, no.

17 Q Less than that? Two or three days?

18 A Two or three days in each place.

19 Q Then they were at your house and then they  
20 went to your lawyer's office?

21 A Uh-huh.

22 Q They didn't go directly from your house to

1 Mr. Kendall's office?

2 A No, they never went to Mr. Kendall's  
3 office.

4 Q Do you have any documents at your house or  
5 are they all gone to your lawyer's office?

6 A They are all gone to my lawyer's office.

7 Q You retained copies of all documents that  
8 you identified that were shipped to you in January of  
9 1994?

10 A No.

11 Q You have not retained copies of all  
12 documents?

13 A No.

14 Q Has your lawyer retained copies of all  
15 documents as far as you know?

16 A No.

17 Q What has happened to the copies of other  
18 documents? What happened to some of these documents  
19 that you didn't maintain copies of?

20 A We transferred some things to Mr. Kendall  
21 that I was just sick and tired of paying copying  
22 costs on.

1 Q What documents were those?

2 A I know some stuff I pulled together on Dan  
3 Lasater, my work files on Dan Lasater. I don't know  
4 what else.

5 Q What was contained within your work files  
6 for Dan Lasater?

7 A State police radio. I don't remember what  
8 else.

9 Q Those were underlying documents, am I  
10 correct, like bond offering agreements?

11 A I doubt it.

12 Q Legislative materials?

13 A I doubt it.

14 Q Newspaper articles?

15 A Newspaper articles.

16 Q Were there any memos that you wrote on Dan  
17 Lasater?

18 A Maybe. I haven't reviewed those files in a  
19 long time.

20 Q Do you recall anything more about what was  
21 contained in the Lasater files, in your files with  
22 regard to Dan Lasater?

1 A No.

2 Q Did you ship any -- did you give any other  
3 documents to Mr. Kendall?

4 A Well, if I found other things in my house,  
5 in my personal records that I thought were in his  
6 area, as areas started settling in, we transferred  
7 them to him. I don't recall specifically.

8 MR. COHEN: Excuse me a second.

9 (Pause.)

10 Why don't we clarify this like sort of once  
11 for everybody and then --

12 MR. GIUFFRA: It is a bit confusing.

13 MR. COHEN: It is not nearly as confusing  
14 as it comes out this way. Ms. Wright became  
15 custodian of records of campaign --

16 THE WITNESS: Gubernatorial campaigns.

17 MR. COHEN: From 1982 forward.

18 THE WITNESS: No.

19 MR. COHEN: There came a time --

20 BY MR. GIUFFRA:

21 Q Is that right or wrong?

22 A That's wrong. I have the '78 and the '80

1 records also.

2 Q The '78, '80, all the gubernatorial records  
3 you are the custodian of?

4 A No. I don't have '90.

5 MR. COHEN: Originally including '90.  
6 Since she was not involved in the '90 campaign, it  
7 made no sense for her to be custodian of records of  
8 that campaign. The custodian of records of that  
9 campaign became John Tisdale. Consequently, the  
10 boxes of documents that came from the '90 campaign  
11 were given to Tisdale.

12 THE WITNESS: Correct.

13 MR. COHEN: Material that did not relate to  
14 the custodianship of the campaign, which was the only  
15 function which she performed as custodian, were given  
16 to Kendall, who produced them pursuant to a variety  
17 of requests from agencies.

18 BY MR. GIUFFRA:

19 Q Is that correct?

20 A Correct.

21 Q On this December 2 call, '93, you have no  
22 recollection of it?



1 A I don't remember it specifically.

2 Q You don't recall what files it could be  
3 talking about? Just Whitewater files possibly,  
4 Madison files?

5 A Rarely in my life has anything been limited  
6 to either Whitewater or Madison. There are very rare  
7 periods when that is all anybody happens to be asking  
8 about.

9 Q Did the documents have anything to do with  
10 any of the subjects specified in our resolution?

11 A I don't know.

12 Q Did it have to do with Lasater, do you  
13 think, David Hale, the Rose Law Firm?

14 A No.

15 Q You don't think so.

16 How well do you know Webster Hubbell?

17 A I know him fairly well without being a  
18 confidante.

19 Q A friend?

20 A Yes. And a friend because he was a friend  
21 of the Clintons.

22 Q When did you first learn that an issue had

1 arisen with regard to how he was handling expenses at  
2 the Rose Law Firm?

3 A I guess when he left the Justice  
4 Department.

5 Q That would be sometime in 1994?

6 A I'm going to rely on you for the years. I  
7 don't know.

8 Q You don't recall anyone discussing it with  
9 you prior to that time, the possibility of problems  
10 involving his expenses at the Rose Law Firm; correct?

11 A I don't.

12 Q Did you ever discuss anything having to do  
13 with Whitewater-Madison, David Hale with Judge  
14 Hubbell?

15 A Only generically, not in specific.

16 Q During 1993, did you discuss with him -- do  
17 you recall any discussion you had with Judge Hubbell  
18 during 1993 about Whitewater or Madison?

19 A No. I don't remember any. I mean, if we  
20 talked, it was just the wringing of hands that all of  
21 us do about this crap circulating in the air.

22 Q Did you have any discussions -- you know

- 1 Bill Kennedy; right?  
2 A Yes.  
3 Q Did you ever have any discussions with Bill  
4 Kennedy about anything having to do with Whitewater  
5 or Madison?  
6 A No.  
7 Q Do you know a man named Randy Coleman?  
8 A I don't know if I have ever met him. I  
9 know he is a lawyer in Little Rock.  
10 Q Do you know a guy named Richard Mays?  
11 A Yes.  
12 Q Who is Richard Mays?  
13 A He is a lawyer in Little Rock.  
14 Q Have you ever discussed David Hale with  
15 Richard Mays?  
16 A No. I don't discuss David Hale, and I  
17 never did before.  
18 Q We have a message slip from you to Judge  
19 Hubbell 12/2/93. It says "Betsey Wright message  
20 video games." Do you know what that could refer to?  
21 A Video games?  
22 Q Yes.
- 

- 1 The Bates is 11192, GRO 000889.  
2 (Witness examined the document.)  
3 A I don't know.  
4 Q Okay. Do you know a man named Mr. Matsui,  
5 M-a-t-s-u-i?  
6 A It sounds familiar.  
7 Q Someone at the White House, perhaps?  
8 A Are you talking about Doris Matsui.  
9 Q Could be. Did she work at the White House?  
10 A There is a Doris Matsui in the public  
11 liaison office of the White House. She is the wife  
12 of Congressman Matsui of California.  
13 Q She is someone you visited at the White  
14 House?  
15 A Probably. She was involved in NAFTA.  
16 Q Okay. That answers the question.  
17 Was Mrs. Matsui or a friend or relative of  
18 Mrs. Matsui a person that advised you of the  
19 statements being made by the RTC person in  
20 California?  
21 A No.  
22 Q This is a document bearing Bates S 9199.

1 This is a Vincent Foster telephone log dated May 24,  
2 '93. Do you know why you -- do you know what this  
3 message could be about?

4 A No.

5 Q Do you recall calling Mr. Foster on May 24,  
6 1993?

7 A No. I mean, I do recall that I called him  
8 a couple times. I don't remember the specific date  
9 and that doesn't ring a bell.

10 Q Let me show you another document, S 7754.  
11 This is a message slip that we received from the  
12 White House. My understanding is that Melanie is --

13 A Melane.

14 Q She is the secretary to Mrs. Clinton?

15 A No. She is the policy advisor.

16 Q Do you know why you might have been calling  
17 Melane on 7/27/93?

18 A No.

19 Q Again, with regard to -- did you discuss --  
20 strike that.

21 Before the discovery of the Foster torn-up  
22 scraps of paper became public, no one discussed it

---

1 with you; correct?

2 A No.

3 Q Have you ever discussed those scraps of  
4 paper with Mrs. Clinton?

5 A No.

6 Q President Clinton?

7 A No.

8 Q Let me show you a message slip, this is  
9 S 7827 from Bruce Lindsey. January 6 '94, is that  
10 the time you were in Little Rock perhaps?

11 A Yes.

12 Q You think you were calling Mr. Lindsey when  
13 you were reviewing documents in Little Rock?

14 A Yes.

15 Q Do you recall any issues that you raised  
16 with Mr. Lindsey in the course of your conversations  
17 with him while you were in Little Rock?

18 A That call, I think that was the night  
19 before Virginia's funeral. I think the funeral was  
20 on the 7th. I think Saturday was the 7th. I called  
21 him and Mr. Kendall when I found the box of  
22 Whitewater documents. I learned that Mr. Kendall was

1 en route to Little Rock for the funeral.

2 Q Not Mr. Lindsey, but Mr. Kendall was en  
3 route.

4 A Uh-huh.

5 Q Now, that box of Whitewater documents, was  
6 that picked up by Mr. Kendall or was it shipped by  
7 you back to Washington?

8 A I hand-carried it back to Washington.

9 Q I show you another message. This is  
10 Vincent Foster S 9220. It is a call on July 16,  
11 1993, 9:58 a.m. Any recollection of placing this  
12 call to Mr. Foster?

13 A When did he commit suicide?

14 Q He committed it on the 20th.

15 A Is this a Friday?

16 Q I think that is right.

17 A I know I talked to him the Friday before he  
18 killed himself on Tuesday.

19 Q Do you recall what you talked to him about?

20 A I did.

21 Q What was that?

22 A I was talking him about the nanny policy.

1 Q That has to do with the tax issue with  
2 regard to -- what is the nanny policy?

3 A That's what it is.

4 Q Whether you have to pay income tax on --

5 A I was specifically addressing --

6 Q A possibly appointment?

7 A No. That there were some people in the  
8 administration who needed to change nannies, and  
9 there needed to be a specific time given them that  
10 was reasonable to find new nannies.

11 MR. COHEN: I don't think that is within  
12 the scope of the Senate resolution.

13 MR. GIUFFRA: No, I don't think it is.

14 BY MR. GIUFFRA:

15 Q We have a record indicating you visited  
16 President Clinton in the residence on September 8,  
17 1993 at approximately 7:30 p.m. Do you have any  
18 recollection about what that could be about, that  
19 meeting?

20 MR. COHEN: Do you know what day of the  
21 week it was?

22 BY MR. GIUFFRA:



1 Q No recollection?

2 A Are you sure it was p.m.?

3 Q That's the time I see here, 1930, which I  
4 would think would be 7:30 military time. I will give  
5 you that.

6 A Do you think it was a dinner party or  
7 something?

8 Q I have no idea. That's why I asked the  
9 question.

10 MR. COHEN: Right, he wouldn't know.

11 THE WITNESS: Or a movie or something.

12 BY MR. GIUFFRA:

13 Q Is that what it could be?

14 MR. COHEN: That's why I asked what day of  
15 the week it was.

16 MR. GIUFFRA: I'm not sure.

17 MR. COHEN: In any event, she doesn't  
18 remember, she doesn't remember.

19 BY MR. GIUFFRA:

20 Q You don't recall meeting with the President  
21 in September of 1993?

22 A I don't attach times and dates.

1 Q Did there come a time when you learned that  
2 Governor Jim Guy Tucker was under investigation for  
3 activities relating to Madison Guaranty and Capital  
4 Management Services?

5 A Through the media.

6 Q Never discussed it with him?

7 A With Jim Guy?

8 Q Yes.

9 A No.

10 Q Or anyone from his staff?

11 A No.

12 Q Did there come a time when you learned that  
13 he was mentioned in an RTC criminal referral?

14 A Just through the press.

15 Q Do you recall discussing Jack Palladino  
16 with Webster Hubbell in July of 1993? Excuse me.  
17 June of 1993.

18 A Well, I attach the date because I assume  
19 you have the phone message that the press has. So I  
20 can put the date on it. I remember talking to Web  
21 about a Jack Palladino matter.

22 Q What was the matter you were discussing

1 with Judge Hubbell?

2 A Jack had learned some things in the course  
3 of some work he did for another client that he felt  
4 he wanted to pass on to someone at the Justice  
5 Department, and I asked Web whether he would be  
6 willing to talk to Jack, and he said yes, just give  
7 me his phone number. So I called his office and left  
8 the phone number.

9 Q Do you know what the matter related to?

10 MR. COHEN: Did the matter relate to  
11 anything in this resolution?

12 THE WITNESS: No.

13 BY MR. GIUFFRA:

14 Q What did the matter relate to?

15 MR. COHEN: Unless it related to something  
16 in this resolution, I will not let her disclose it.

17 MR. GIUFFRA: I can't think of any basis.  
18 I'm not looking to probe the matter. I want a  
19 general description of what the matter was, other  
20 than a matter that someone thought he should know  
21 about.

22 THE WITNESS: It was a military matter.

1 BY MR. GIUFFRA:

2 Q Can you be more specific than just a  
3 military matter?

4 A I didn't have a specific conversation with  
5 him about the substance of the issue.

6 Q Palladino wanted to speak to Hubbell about  
7 a military matter?

8 A He wanted to speak to someone in the  
9 Justice Department. I asked Web whether he would be  
10 willing to speak to someone and he said yes.

11 Q Is this an issue that has a civil or a  
12 criminal law nexus?

13 MR. COHEN: If you know.

14 THE WITNESS: I don't know.

15 BY MR. GIUFFRA:

16 Q Did it have anything to do with the  
17 Clintons?

18 A Nothing, and from Web's testimony, it hurt  
19 my feelings that he didn't remember. But they never  
20 linked up.

21 Q Do you recall, Ms. Wright, whether it had  
22 anything to do with an appointment that Judge Hubbell

1 wanted to make at the Justice Department?

2 A No, it didn't. It was a policy issue.

3 Q You don't recall anything more about it?

4 A I knew nothing, no details about it.

5 Q Generally, do you know anything more than  
6 just a military matter?

7 A I do know one thing more specific, but it  
8 has nothing to do with this resolution, and in the  
9 context in which we are talking, I really would  
10 prefer not to deal with it.

11 MR. COHEN: It doesn't relate to your  
12 resolution. It is a policy matter and it doesn't  
13 relate to the Clintons.

14 MR. GIUFFRA: But I think it is our  
15 responsibility to decide what does and doesn't relate  
16 to the resolution.

17 MR. COLE: I think Ms. Wright has been  
18 quite forthcoming in trying to let you determine  
19 whether there is any nexus here.

20 MR. GIUFFRA: Judge Hubbell has given us  
21 contrary testimony with regard to this conversation  
22 with Mr. Palladino.

1 MR. COLE: The fact that he doesn't have  
2 perfect recall of every inconsequential telephone  
3 conversation is not a subject for this. We are not  
4 investigating Judge Hubbell here. Maybe we should go  
5 off the record and let Ms. Wright discuss it with her  
6 counsel and then perhaps her counsel can --

7 MR. GIUFFRA: Let's do that.

8 (Discussion off the record.)

9 MR. COHEN: I can't satisfy you any more  
10 other than Ms. Wright's other testimony. She  
11 described generically the matter.

12 MR. GIUFFRA: She said it had to do with  
13 Jack Palladino, the military and Webster Hubbell.

14 MR. COHEN: Right, and a matter that  
15 Palladino thought that someone in the Justice  
16 Department ought to know about. It doesn't relate to  
17 the Clintons, doesn't relate to ADFA, doesn't relate  
18 to Madison, doesn't relate to anything in this  
19 resolution.

20 THE WITNESS: Doesn't relate to Arkansas,  
21 period.

22 MR. GIUFFRA: Doesn't relate to Vincent

1 Foster?

2 THE WITNESS: No.

3 MR. COHEN: If you would like, I can go  
4 through each and every one of the items in this  
5 resolution, and Ms. Wright will affirm that it has  
6 nothing to do with any of them.

7 MR. GIUFFRA: The difficulty we have is  
8 that Judge Hubbell has given a different description  
9 of what this phone call had to do with.

10 MR. COHEN: Why don't you ask her if his  
11 description of the phone call is correct and she will  
12 be glad to tell you.

13 MR. COLE: Off the record.

14 (Discussion off the record.)

15 MR. GIUFFRA: He I believe said it had to  
16 do with the President's genealogy.

17 THE WITNESS: It didn't.

18 BY MR. GIUFFRA:

19 Q And you don't want to go beyond "the  
20 military."

21 MR. COHEN: I will say for the record now  
22 that we are back on that it had nothing to do with

1 Vince Foster's death, nothing to do with the  
2 Clintons, nothing to do with Arkansas, nothing to do  
3 with any matter in this resolution or Arkansas or  
4 anything else conceivably within the ambit of this  
5 committee.

6 MR. GIUFFRA: Fine.

7 BY MR. GIUFFRA:

8 Q During the campaign, Mr. Palladino, he was  
9 paid by the campaign; correct?

10 A Correct.

11 Q Since that time, has he still done work?

12 A No.

13 Q No work for the Clintons?

14 A None.

15 Q Was Mr. McLarty involved in  
16 Whitewater-related matters in '83 and '84, as far as  
17 you know?

18 A I don't know anything about Whitewater  
19 matters in '83 and '84.

20 Q I'm sorry. '93 and '94.

21 A I don't know.

22 Q Was Mr. Burton at all involved? Did you



1 have any dealings with Mr. Burton about  
2 Whitewater-Madison-related matters in '93 and '94?

3 A I don't think so.

4 Q Did you speak to Mr. Burton at all, do you  
5 think, in '94 about Whitewater matters?

6 A No, I don't think so.

7 Q Let me show you a document bearing Bates S  
8 8378. This is a memo from Mac McLarty from Bill  
9 Burton, subject, Betsey Wright, dated March 29, 1994  
10 that begins "I spoke with Betsey Wright again today"  
11 and it discusses things you discussed with  
12 Mr. Burton, including Whitewater.

13 (Witness examined the document.)

14 Any recollection of speaking with  
15 Mr. Burton?

16 A Well, I mean, I clearly called to tell John  
17 Podesta.

18 Q You had a lot of dealings with John Podesta  
19 at this point?

20 A I was getting a lot of press inquiries and  
21 I did try to coordinate with the White House and make  
22 them aware of them.

1 Q Do you recall speaking to Mr. Burton?

2 A I spoke to him a lot, but not on this  
3 issue. He was a long-time friend.

4 Q Did you ever speak to Mr. Burton about  
5 anything having to do with the handling of documents  
6 in Mr. Foster's office?

7 A No.

8 Q Did you ever speak to anyone at the White  
9 House about the handling of documents in Mr. Foster's  
10 office at any time?

11 A No.

12 Q Did you ever speak to anyone in the White  
13 House about the fact that the scraps of paper in  
14 Mr. Foster's notebook were not found sooner?

15 A No.

16 Q Nothing having to do with --

17 MR. COLE: You mean in Mr. Foster's  
18 briefcase.

19 MR. GIUFFRA: Excuse me.

20 THE WITNESS: No.

21 BY MR. GIUFFRA:

22 Q S 7832, this is a Bruce Lindsey call

1 schedule, this document. It says "Betsey Wright  
2 calls 3:37 p.m., January 24, 1994, message said you  
3 probably don't have any choice but to return Apple's  
4 call but you should either say 'I don't know, I  
5 wasn't there' or try to find someone who was.  
6 Typical, that's ridiculous, it is absurd, which you  
7 have gotten very good at. He would like you to keep  
8 her -- she would like you to keep her abreast of  
9 developments."

10 Do you know what this has to do with?

11 A It clearly is relating to some press  
12 inquiry that I thought he was mishandling. He got a  
13 very facetious message from me.

14 Q Whitewater press call probably?

15 A No. My guess is that that was about a  
16 campaign. He would drive me crazy when he would  
17 answer questions about campaigns he had never been  
18 anywhere near.

19 Q Just to get this out, Ms. Wright, you  
20 received a subpoena from the Senate Whitewater  
21 Committee, a document subpoena, a subpoena for  
22 documents; correct?

1 A You guys?

2 Q Yes.

3 A Yes.

4 Q And as far as you know, all documents  
5 responsive to that subpoena have been turned over to  
6 the Committee?

7 A Yes.

8 Q Who is Maurice Smith?

9 A He is a man from Bird Eye, Arkansas.

10 Q What was his role in the Clinton  
11 Administration?

12 A He was executive secretary in '83 for about  
13 probably 18 months.

14 Q Is that what your position was, executive  
15 secretary?

16 A No. Chief of staff. Then he went to I  
17 believe the University of Arkansas board of trustees,  
18 and then he became the director of the highway  
19 commission, which was not actually hired by the  
20 Governor but by the commission.

21 Q I apologize for being somewhat scattershot  
22 about this. Prior to when -- there came a time when

1 Mr. Hubbell turned the documents you had given to him  
 2 over to Mr. Kendall. Did you review them before  
 3 Mr. Hubbell turned them over to Mr. Kendall in 1993?

4 A No.

5 Q Do you have any idea where Mr. Hubbell  
 6 stored the documents?

7 A No.

8 Q Did you ever discuss the fact that he was  
 9 storing the documents with Mr. Hubbell during 1993?

10 A No.

11 Q Did you discuss the fact that Mr. Hubbell  
 12 was storing these documents with anyone during 1993?  
 13 Did you discuss the fact that Mr. Hubbell was storing  
 14 certain boxes of documents that you had given him in  
 15 '92 during '93?

16 A When did my boxes go to Mr. Kendall's  
 17 office?

18 Q Probably sometime in November of '93, I  
 19 would think, roughly. We don't know, November,  
 20 December '93 is probably the best guess.

21 A I told one person that I had given my boxes  
 22 to Web Hubbell during 1993.

1 Q Who did you tell?

2 A Hillary.

3 Q When did you tell Hillary that you had  
 4 given your boxes to Web Hubbell during 1993? Strike  
 5 that.

6 When during 1993 did you tell Mrs. Clinton  
 7 that you had given your boxes to Web Hubbell in 1993?

8 A When is Father's Day?

9 Q In June, I believe.

10 MR. COHEN: Yes.

11 THE WITNESS: It was probably a week or so  
 12 before Father's Day.

13 BY MR. GIUFFRA:

14 Q This would be 1993?

15 A Yes.

16 Q Did Mrs. Clinton indicate to you why she  
 17 was asking about or wanted to know --

18 MR. COHEN: She didn't say she asked.

19 BY MR. GIUFFRA:

20 Q Did you volunteer the information to  
 21 Mrs. Clinton about where the boxes were?

22 A I didn't know where they were.

1 Q You mentioned you had given them to  
2 Mr. Hubbell.

3 A Yes.

4 Q Did Mrs. Clinton ask you where the boxes  
5 were?

6 A No, I don't know that she knew anything  
7 about the boxes.

8 Q Did she raise the issue about the boxes?

9 A She asked me for information in one of the  
10 files. I told her I no longer had the files, I had  
11 given them to Web.

12 Q What was the information she was asking  
13 about?

14 A About Bill's father.

15 Q This is a genealogy question?

16 A Yes, because The Washington Post was fixing  
17 to run a story about siblings.

18 Q Did you describe in any kind of detail --  
19 in describing that you had given the boxes to  
20 Mr. Hubbell, what did you tell Mrs. Clinton? Did you  
21 say you had given him all your files?

22 A That it was -- that I had kept it out when

1 I left the campaign and that it was in boxes that I  
2 had given to Web.

3 Q Did you describe any further the boxes you  
4 had given to Web?

5 A No.

6 Q But was Mrs. Clinton aware that you had  
7 given to Mr. Hubbell your boxes containing Whitewater  
8 documents?

9 A No. That was clearly the first time she  
10 was ever aware that I had given my files from the  
11 campaign to Web.

12 Q The so-called Betsey files?

13 A Yes.

14 MR. COHEN: The improperly described, much  
15 abused, maligned files.

16 BY MR. GIUFFRA:

17 Q Sometime around Father's Day 1993 you  
18 advised Mrs. Clinton that you had given the so-called  
19 Betsey files you had generated to Mr. Hubbell?

20 A Correct.

21 Q And Mr. Hubbell was maintaining them at  
22 home -- strike that. I apologize.



1 A I might actually have the circumstances  
2 mixed up sequencewise, because I know I also had a  
3 conversation with a woman who said that she was a  
4 half sister to the President. I did alert -- I did  
5 have a conversation with Bill and Hillary about  
6 that. It could have been -- I don't remember which  
7 came first.

8 Q But it was approximately sometime within  
9 two weeks of Father's Day 1993?

10 A No. The Father's Day issue comes up  
11 because The Washington Post was going to run a story  
12 about Bill's father and siblings.

13 Q Do you know if Mrs. Clinton contacted Judge  
14 Hubbell about these documents?

15 A I don't.

16 Q Have you had any discussions about  
17 Whitewater-Madison issues with Maggie Williams?

18 A No.

19 Q Do you know Maggie Williams?

20 A Yes.

21 Q I include within that the Rose Law Firm.

22 A Right.

1 Q You do know Maggie Williams; right?

2 A I do.

3 Q Have you ever discussed anything having to  
4 do with the handling of the documents in Vincent  
5 Foster's office with Maggie Williams?

6 A No.

7 Q Let me show you some documents. This is a  
8 document that bears Bates number RS 381, and it goes  
9 to RS 722. It is a letter from David Kendall dated  
10 November 22, 1993 to Jerry Jones.

11 It says in part "I am enclosing herewith  
12 three file folders labeled Madison Guaranty Limited  
13 Partnership, Application Brokerage Activities,  
14 Madison Guaranty Net Worth, Preferred Stock Offering  
15 and Madison Guaranty Preferred Stock Offering  
16 Corporate, which were among the late Vincent Foster's  
17 files. They appear to me to be files of Rose Law  
18 Firm documents. I thought it most appropriate to  
19 transmit them to you for retention and storage."

20 Let me just show you these document and the  
21 cover letter and ask if you know anything about  
22 them. Take your time.

1 (Witness examined the documents.)

2 MR. COHEN: Excuse me. What is the  
3 question? I take it the question is have you ever  
4 seen these before? Were they part of your campaign  
5 files?

6 MR. GIUFFRA: Correct.

7 MR. COHEN: Just so we have the question.

8 BY MR. GIUFFRA:

9 Q Have you ever seen the documents before and  
10 were they part of your campaign files. Take your  
11 time. It is just this fun chain of custody stuff.

12 (Witness reviewed the documents.)

13 A The letter from Beverly Bassett to Hillary  
14 of May 14 I have seen before.

15 Q Ms. Wright, of all the documents in this  
16 giant pile, which of the documents have you seen  
17 before?

18 A The letter from Commissioner Bassett of  
19 March something '85 to Mrs. Clinton.

20 Q That's the only document you have ever seen  
21 before?

22 A I believe so.

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1 MR. COLE: It is May, I think, just for  
2 accuracy.

3 THE WITNESS: Thank you. It was May.

4 BY MR. GIUFFRA:

5 Q That was a document in your files at the  
6 campaign?

7 A Yes.

8 Q And did you keep it -- was that part of the  
9 Betsey files at the end of the campaign?

10 A Probably.

11 Q When we refer to underlying documents,  
12 that's an underlying document and the only one you  
13 are aware of?

14 A That I recall.

15 Q You don't know anything about how any  
16 Madison Guaranty client files -- do you know anything  
17 about how any Madison Guaranty client files were  
18 removed from the Rose Law Firm?

19 A No.

20 Q Do you know that any Madison Guaranty  
21 client files were removed from the Rose Law Firm?

22 A No.

1 Q Do you know what Mr. Kendall was talking  
2 about when he said these files were among the late  
3 Vincent Foster's files?

4 A No.

5 Q When did you learn -- did there come a time  
6 that you learned that a search warrant had been  
7 executed with regard to Capital Management Services  
8 in Little Rock?

9 A In the press.

10 Q Let's turn to Whitewater and your knowledge  
11 of Whitewater.

12 MR. COHEN: That will be short.

13 BY MR. GIUFFRA:

14 Q You testified that you knew Jim McDougal;  
15 correct?

16 A Yes.

17 Q And you knew that he was a friend of the  
18 governor?

19 A He had been on his staff, yes.

20 Q Did you know Susan McDougal?

21 A Yes.

22 Q How did you know Susan McDougal?

1 A She had been on his staff.

2 Q When was Susan McDougal on the Governor's  
3 staff?

4 A In his first term.

5 Q What was her position on his staff?

6 A I don't know. I wasn't there.

7 Q Now, was Susan McDougal a friend of  
8 Governor Clinton's?

9 A I never know what people mean by the word  
10 "friend." Bill Clinton has 4,372,000 friends. They  
11 were both former staff people, well acquainted. They  
12 weren't social friends.

13 Q Do you know whether Governor Clinton ever  
14 met with Jim McDougal? We have already discussed  
15 that.

16 A Yes, we have. Did you forget? Your memory  
17 is shorter than mine.

18 Q Do you know whether Governor Clinton ever  
19 met with Susan McDougal?

20 A I don't know.

21 Q Do you know whether Mrs. Clinton ever met  
22 with Susan McDougal?

1 A I don't know.

2 Q Do you know whether Susan McDougal ever  
3 visited the Governor's mansion?

4 A I know she was invited to events we did  
5 there, so I assume she did.

6 Q Do you know whether Governor Clinton ever  
7 visited the McDougals' home?

8 A I don't know.

9 Q But you would not describe Susan McDougal  
10 as a social acquaintance of the Governor?

11 A No.

12 Q And you don't know about any meetings or  
13 contacts between the Governor and Susan McDougal?

14 A I know that she was at the Madison Guaranty  
15 fundraiser in '85.

16 Q Anything else? Are you aware of any other  
17 contacts of any nature between the Governor and Susan  
18 McDougal?

19 A Not specifically. I think I saw her at  
20 some function at the Governor's mansion once.

21 Q Do you have a general recollection of any  
22 contacts between --

1 A And also when Jim McDougal was running for  
2 office, they all would have been at the same rallies  
3 and stuff at the same time.

4 Q Do you have any other recollection of any  
5 contacts, do you know of any contacts between the  
6 Governor and Susan McDougal?

7 A Not specifically.

8 Q In general.

9 A I don't know -- none specifically come to  
10 mind.

11 Q Excuse me?

12 A None specifically come to mind.

13 Q Generally?

14 MR. COHEN: We went from generally to  
15 specifically and back to generally.

16 Do you know about any meetings or contacts  
17 between Susan McDougal and President Clinton?

18 THE WITNESS: There must have been  
19 contacts. I can't sit here and tell you when they  
20 were or what the nature of them were.

21 BY MR. GIUFFRA:

22 Q You would not describe Susan McDougal as a



1 social acquaintance of the governor?

2 A No.

3 Q Or friend of the governor?

4 A I would as a friend. All of his former  
5 staff I would call friends.

6 Q When did you first learn that Governor  
7 Clinton and his wife had an investment in Whitewater  
8 Development Corporation?

9 A When I asked what Whitewater was while we  
10 were filling out the disclosure form.

11 Q When was that?

12 A It must have been in the '83 disclosure  
13 form.

14 Q Why do you say it must have been?

15 A That would have been the first one I would  
16 have worked with.

17 Q What did the Governor tell you about his  
18 investment in Whitewater Development Corporation?

19 A That it was a development thing of  
20 McDougal's.

21 Q Did he indicate to you that he and  
22 Mrs. Clinton were 50/50 partners in Whitewater

1 Development Corporation?

2 A No. Just that they had invested in it.

3 Q Did he indicate whether they had invested  
4 any money in Whitewater Development Corporation?

5 A Yes. That's what they invested in it.

6 Q There is a difference between being a  
7 signatory on a note and actually taking money out of  
8 your pocket and investing it into something.

9 MR. COHEN: The question must be is that a  
10 detail he got into with you, because that was just a  
11 statement in the question.

12 BY MR. GIUFFRA:

13 Q Did he get into more than that, other than  
14 they had invested in Whitewater Development  
15 Corporation?

16 A No.

17 Q In filling out the form, you obviously had  
18 to list what the value of the asset was; is that  
19 right?

20 A No.

21 Q Just had to list that he had an investment  
22 in Whitewater?

1 A As I recall.

2 Q Nothing more than that?

3 A I believe that's correct.

4 Q Your knowledge did not go beyond the fact  
5 that he had an investment in Whitewater Development  
6 Corporation with Jim McDougal?

7 A It might have shown up on the financial  
8 statements we filed with the bank when we took out  
9 campaign loans.

10 Q Do you recall seeing it on --

11 A I don't.

12 Q Were other members of the governor's staff  
13 aware of the fact that the Governor and Mr. McDougal  
14 had a business relationship or were partners in an  
15 investment?

16 A I don't know. Those were -- the disclosure  
17 statements were obviously public documents. So the  
18 newspapers nearly always wrote Whitewater Development  
19 Company or something.

20 Q Did they indicate who was his partner in  
21 Whitewater Development Corporation?

22 A I don't think so.

1 Q Did other people know he and Jim McDougal  
2 were investors in Whitewater Development  
3 Corporation?

4 MR. COHEN: To your knowledge.

5 THE WITNESS: I don't know.

6 BY MR. GIUFFRA:

7 Q Did you ever hear -- strike that.

8 Now, did you ever discuss -- strike that  
9 again.

10 Other than this first conversation where  
11 the Governor indicated to you he had an investment  
12 with Jim McDougal in Whitewater Development  
13 Corporation, do you recall any other conversation you  
14 had with Governor Clinton about his investment in  
15 Whitewater Development Corporation?

16 A It was a loser, and they were trying to get  
17 out of it.

18 Q When did you have conversations with the  
19 Governor that the investment was a loser?

20 A My whole life.

21 Q He was constantly complaining about the  
22 fact that --

1 A No, but every time it came up, the  
2 impression was that this was something that was a  
3 loser and they were always trying to get out of as  
4 long as I was there.

5 Q This would be from '83 until when? 'Until  
6 90?

7 A '81.

8 Q From '81 until '90 he was indicating to you  
9 their investment in the Whitewater Development  
10 Corporation was a loser and they wanted to get out?

11 A Yes, but we didn't have long in-depth  
12 discussions. You articulated it far more clearly  
13 than our conversations from which I inferred  
14 impressions.

15 Q Why don't you state the conversations.

16 A I articulated to you the impression I  
17 inferred. I don't recall specific long  
18 conversations. It was just this was something to  
19 dismiss. It was one of those pesky things in their  
20 life to get rid of.

21 Q Do you know whether Governor Clinton ever  
22 discussed the extent of his investment in Whitewater

1 Development Corporation with you?

2 A I don't know.

3 Q Did he ever indicate to you that he lost  
4 money as a result of his investment in Whitewater  
5 Development Corporation?

6 MR. COHEN: She just told you that that was  
7 her impression, that it was a loser.

8 THE WITNESS: That's correct.

9 BY MR. GIUFFRA:

10 Q Did he indicate he lost money? You can  
11 just be flat, for example.

12 A I didn't know that. I assumed it meant  
13 whatever they invested was gone.

14 Q Do you recall anything further about any  
15 conversations you ever had with Governor Clinton  
16 about Whitewater Development Corporation?

17 A Not specifically.

18 Q Generally?

19 A I --

20 MR. COLE: For me at least it would be  
21 helpful to distinguish between discussions prior to  
22 the time this became an issue in the 1992

1 presidential campaign and discussions after.

2 MR. GIUFFRA: I am happy to do that.

3 BY MR. GIUFFRA:

4 Q Between 1981 and the 1992 presidential  
5 campaign, what more do you recall about discussions  
6 you had with Governor Clinton about his investment in  
7 Whitewater Development Corporation?

8 A Just that at one point he thought they were  
9 out of it. Then we found out they were weren't out  
10 of it and had to file a supplemental disclosure.

11 Q Do you recall approximately when he thought  
12 they were out of it?

13 A No.

14 Q Did he ever discuss with you anything  
15 having to do with Whitewater Development Corporation  
16 and his income taxes?

17 A I never discussed his income taxes with him  
18 other than making certain that they were filed on  
19 time and that when we did disclosures that we had  
20 complete sets. I just don't remember discussing the  
21 substance of them with him.

22 Q Did you ever discuss with Mrs. Clinton the

1 Clintons' investment in Whitewater Development  
2 Corporation?

3 MR. COHEN: Can we have the same caveat? I  
4 say that because we have exhaustively covered the  
5 1992 campaign discussions about this.

6 MR. GIUFFRA: To some extent.

7 THE WITNESS: Not that I recall. It is not  
8 outside the realm of possibility. But that is not  
9 who I discussed his disclosures with.

10 BY MR. GIUFFRA:

11 Q Your conversations were generally in the  
12 context of his gubernatorial financial disclosures?

13 A Correct.

14 Q Did there come a time in July of 1986 when  
15 you learned that Madison Guaranty was in serious  
16 trouble and that the Federal Home Loan Bank Board of  
17 Dallas was conducting an examination and was very  
18 concerned about Madison Guaranty?

19 A Yes.

20 Q What do you recall learning about that?

21 A Just that the commissioners alerted us.

22 Q By commissioners, you mean Ms. Bassett?



1 A Yes.  
2 Q Did Ms. Bassett call you on the telephone?  
3 A No, no. She sent information through the  
4 liaison, Sam Bratton.  
5 Q Do you recall anything more about the  
6 information she sent to you?  
7 A I have recently reviewed the document, if  
8 that's what you are asking me.  
9 Q Let's take a look at the document. It is  
10 CCBW 884 through 887.  
11 (Witness examined the document.)  
12 A And of course you have these from  
13 Mr. Kendall also.  
14 Q Could be. I'm not entirely sure.  
15 A I'm giving you copies of what I gave him  
16 earlier.  
17 MR. COHEN: I bet you have it from others  
18 as well.  
19 MR. COLE: Mr. Kendall produced a copy.  
20 BY MR. GIUFFRA:  
21 Q These were documents you had during the  
22 campaign or was this a document you generated when

---

1 you went out to Little Rock in '94 that you obtained  
2 in Little Rock in '94? When was the first time you  
3 had this document in your possession other than back  
4 in '86?  
5 A I'm not able to tell you that. I have  
6 forgotten whether I had it in '92 or whether it was  
7 just among the things that we located in the '94  
8 search.  
9 Q Again, just to clarify the record, I would  
10 consider this to be an underlying document.  
11 A Oh, okay.  
12 Q When you indicated -- I believe you  
13 indicated the only underlying document you had in  
14 your campaign files you were aware of was the letter  
15 from Ms. Bassett to Mrs. Clinton in May of '85. You  
16 are not aware of any other original documents?  
17 A Not that I'm remembering right now. The  
18 commonality of those of course, they were both from  
19 the state agency.  
20 Q That's correct. Do you remember during the  
21 campaign making any effort to obtain documents from  
22 state agencies, '92 campaign, that is?

1 A Sure.

2 Q Did you direct anyone to obtain documents  
3 from state agencies during the '92 campaign?

4 A I frequently would request public documents  
5 that I needed according to whatever we were being  
6 asked about, information I was compiling.

7 Q Do you recall asking for this document  
8 during the '92 campaign?

9 A No, I don't.

10 Q What do you recall about -- did you get a  
11 copy of this document when you were chief of staff to  
12 the Governor, this Bratton --

13 A I saw this document, yes.

14 Q What do you recall about it?

15 A That it was yet another savings and loan in  
16 bad trouble, that this one was an alert not because  
17 of impending danger to state deposits but impending  
18 danger of McDougal blindsiding Bill Clinton.

19 Q Why did you think McDougal might blindside  
20 Bill Clinton?

21 A No more so McDougal than other people. But  
22 a lot of times people called Bill directly on stuff

1 that I had to warn him about.

2 Let me just add, and I know he did not ask  
3 this, this was the procedure of our agency directors  
4 and department heads to alert us to issues that would  
5 become public that we had state responsibility  
6 within, that the Governor had executive  
7 responsibility decisions to make or that impacted  
8 him, friends of his that might try to go to him.

9 I pretty much would say all three of them  
10 are combined in this. It was a routine alert from an  
11 agency director.

12 Q Was this alert, though -- was your office  
13 alerted every time a savings and loan got an  
14 examination that was a negative examination?

15 A If it was in danger of being shut down,  
16 yes.

17 Q You would have been notified?

18 A Yes. And during this period of time, there  
19 were a number. This was hardly the first.

20 Q There there were a number of S&Ls -- strike  
21 that.

22 This was the normal practice of Ms. Bassett

1 to send --

2 A Of all state agency directors.

3 Q I want to focus on S&Ls. Was it the normal  
4 practice of Ms. Bassett to alert the Governor's  
5 office whenever a state S&L was in serious trouble?

6 A Correct.

7 Q Yes.

8 MR. COHEN: That is also her testimony,  
9 yes.

10 BY MR. GIUFFRA:

11 Q Now do you recall any -- was this done just  
12 so that the Governor would be alerted to the problems  
13 that might be -- strike that.

14 Do you recall any press contacts that you  
15 received about Madison Guaranty in July of '86?

16 A I don't recall.

17 Q Was that a reason why Ms. Bassett was  
18 alerting you?

19 MR. COHEN: You have to ask Ms. Bassett why  
20 she was alerting her.

21 BY MR. GIUFFRA:

22 Q Do you have any understanding why

1 Ms. Bassett sent this note over?

2 A It is very clear there was an institution  
3 in great jeopardy, a financial institution in the  
4 state in great jeopardy and that an acquaintance and  
5 friend of his was involved in it.

6 Q Do you know why Ms. Bassett indicates in  
7 this note "because of Bill's relationship with  
8 McDougal"?

9 A Because she knew that McDougal had worked  
10 for Bill.

11 Q And was it widely understood that McDougal  
12 had a relationship with Governor Clinton?

13 A Yes. He had made a Congressional race and  
14 talked a lot about working with Clinton and Fulbright  
15 and whatever.

16 Q After you received -- was it the normal  
17 practice in the office that memos such as this would  
18 be routed from Mr. Bratton to you and then maybe to  
19 the Governor?

20 A Correct.

21 Q Was this document routed to the Governor?

22 A Correct.

1 Q Did you discuss this document? This would  
2 be the note from Ms. Bassett to Mr. Bratton. Did you  
3 discuss this document with the Governor?

4 A I don't recall any great discussion. It  
5 was just passing on the information.

6 Q What if anything do you recall about  
7 discussions you had with Ms. Bassett and the  
8 Governor -- with yourself and the Governor about  
9 Madison Guaranty in July of '86?

10 A I don't remember any until after action had  
11 been taken.

12 Q What was the action that was taken?

13 A They removed Mr. McDougal, the FHLB. I  
14 think Mr. Bratton and I probably together carried  
15 this to the Governor rather than my sending it in his  
16 normal mail.

17 Q Why would you have carried it to him?

18 A Just as part of the stuff to make sure he  
19 didn't miss in a stack of paper. We met with him  
20 very frequently, Sam and I, over general matters.

21 Q Did you have any discussions with  
22 Mr. McDougal during this period?

1 A Not that I recall.

2 Q Do you know whether the Governor spoke to  
3 Mr. McDougal in July of '86?

4 A I don't know.

5 Q Did you have any conversations with  
6 Ms. Bassett about Madison Guaranty in July of '86?

7 A Not that I recall.

8 Q The sum total of this is you recall  
9 bringing the document to the Governor, advising him  
10 generally as to what was going on and that was it?

11 A I think so. That's all I remember about  
12 it.

13 Q You don't recall anything more?

14 A I don't recall any more.

15 Q Let me show you another document, DKS  
16 13309.

17 A Right.

18 Q This is what is called a route slip; is  
19 that correct?

20 A On which I frequently wrote memos, notes.

21 Q This was a note that you sent to the  
22 Governor in July -- July 14, 1986?



1 A I'm not positive about the '86, but I  
2 assume.

3 Q What does JR mean across the top?

4 A That was our press secretary, Joan  
5 Roberts.

6 Q Did you send a copy of this to JR?

7 A Yes, after I had it back.

8 Q Why would you send it to him?

9 A Her. So that she could remind me not to  
10 include it on the next disclosure form.

11 Q And then --

12 A Or that if anybody asked about it, any  
13 press came up, that she would know that they weren't  
14 in that business.

15 Q The purpose of this -- why did you send  
16 this route slip to the Governor?

17 A Because I wanted to know if he was still  
18 involved in the Whitewater Development.

19 Q That was because the earlier notification  
20 you received from Ms. Bassett about McDougal being  
21 removed?

22 A Actually, I think McDougal had been

1 removed. I think it was in response to his removal.

2 Q The removal occurred sometime between the  
3 2nd of July and the 14th of July?

4 A I believe so.

5 Q That was in the newspapers that he had been  
6 removed?

7 A I don't believe it had been in the  
8 newspapers. But it was very commonly known in town.

9 Q How did you know he had been removed?

10 A Almost everybody knew it.

11 Q Do you know who told the Governor?

12 A Does this not refer to the date of a  
13 meeting?

14 MR. COHEN: Yes. The attachment --

15 THE WITNESS: The letter from Federal Home  
16 Loan Board.

17 BY MR. GIUFFRA:

18 Q A meeting on July 11, 1986 it talks about.

19 A I believe it was at that meeting that that  
20 board removed Mr. McDougal.

21 Q You were interested in finding out in light  
22 of the removal of McDougal on July 11, 1986 whether

1 the Governor and his wife still owned stock in this  
2 Whitewater company?

3 A Yes.

4 Q Did you talk to the Governor about this?

5 A Yes.

6 Q The question was whether he still owned the  
7 stock?

8 A It shows how much I knew, because it wasn't  
9 stock.

10 MR. COHEN: It wasn't stock and he still  
11 had it.

12 BY MR. GIUFFRA:

13 Q It says "do you still have?" And then  
14 there is a parenthesis.

15 A Yes, "pursuant to Jim's current problems."

16 Q By that, you mean the fact that he had been  
17 removed?

18 A Yes.

19 Q Read the next line.

20 A "If so, I'm worried about it."

21 Q His note back to you is?

22 A "No, do not have any more."

1 Q Do you know whether he checked with  
2 Mrs. Clinton before writing back to you?

3 A No, I don't know.

4 Q Have you ever asked him whether he checked  
5 with Mrs. Clinton in light of recent events?

6 A No.

7 Q When was the time that you discovered that  
8 he did still in fact own the Whitewater stock?

9 A I don't remember. I think there was some  
10 time.

11 Q You are telling me at some point after July  
12 14 -- when were the disclosures normally filed?

13 A January.

14 Q Of every year?

15 A Yes.

16 Q Do you know whether you filed one the next  
17 year, January 1, '87?

18 A I know we filed one. I haven't pulled it  
19 out to review it.

20 Q You did omit Whitewater at one point?

21 A Yes.

22 Q And then you put it back on the disclosure?

1 A Yes.

2 Q Do you know why you put it on?

3 A Because they discovered they were still  
4 involved.

5 Q Do you recall the circumstances under which  
6 they learned they still owned stock in Whitewater?

7 A I don't think it was stock. I think I was  
8 using the wrong terminology. That was before I owned  
9 stock, so I didn't know what it was.

10 Q It actually was a corporation. Did the  
11 Governor ever indicate to you that he had guaranteed  
12 some loans in connection with Whitewater Development  
13 Corporation?

14 A No.

15 Q Were you aware that he had outstanding  
16 liability with regard to some loans in connection  
17 with Whitewater Development Corporation?

18 A I was aware that Whitewater was an  
19 outstanding liability and maybe not in any strict  
20 financial record sense.

21 Q You didn't know anything more about the  
22 extent to which it was a liability?

---

1 A No.

2 Q Do you know any more about the removal of  
3 Jim McDougal from Whitewater?

4 A No.

5 Q I mean from Madison. Excuse me. The  
6 answer is no?

7 A The answer is no.

8 Q Do you know whether McDougal ever attempted  
9 to contact the Governor?

10 A I do not. I do not recall.

11 Q Am I correct that McDougal was at least  
12 during the period maybe '82, '83, '84 a fairly wealthy  
13 person in Arkansas, at least appeared to be a fairly  
14 wealthy person in Arkansas?

15 A Yes. He had a lot of expensive toys.

16 Q Did there come a time when you learned that  
17 he was in serious financial difficulty?

18 A Yes.

19 Q When approximately was that?

20 A I don't know.

21 Q Mr. McDougal ultimately was indicted and  
22 prosecuted for bank fraud. Was that like 1990? Am I

1 correct?

2 A I believe that's about right.

3 Q When did you learn there was an  
4 investigation of Mr. McDougal for bank fraud?

5 A I don't recall.

6 Q Do you recall if it was a year before, two  
7 years before?

8 A No.

9 Q No recollection at all?

10 A No. Again the rumor mill in Arkansas works  
11 very actively.

12 Q You have no recollection -- he was kicked  
13 out of the bank in July of '86 and he was tried in  
14 19 --

15 MR. COLE: Indicted in '89, acquitted in  
16 '90 is my recollection.

17 MR. GIUFFRA: Yes.

18 BY MR. GIUFFRA:

19 Q You don't recall specifically learning  
20 about --

21 A No, I don't.

22 Q Did the Governor ever discuss with you the

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1 fact that Jim McDougal was indicted for bank fraud?

2 A We probably had a passing conversation  
3 about the tragedy that it had all come to this.

4 Q Do you recall anything more?

5 A That would be it.

6 MR. COHEN: Do you recall that conversation  
7 or are you speculating that it may have occurred?

8 THE WITNESS: I'm speculating. That is the  
9 kind of a natural conversation we would have had. I  
10 don't recall it specifically.

11 BY MR. GIUFFRA:

12 Q Do you know whether the Governor provided  
13 any assistance to Mr. McDougal's defense team in any  
14 way?

15 A No, I don't know.

16 Q Drafting opening statements?

17 A No.

18 Q Or reviewing -- reviewing drafts of opening  
19 statements or closing arguments?

20 A No, I don't know. Did he? Have you heard  
21 that he did?

22 Q No comment.



1 MR. COHEN: Let him answer the questions.

2 MR. GIUFFRA: Off the record.

3 (Discussion off the record.)

4 BY MR. GIUFFRA:

5 Q You don't recall -- let me ask you another  
6 question. Do you recall anything more about the  
7 trial of Jim McDougal?

8 A Just what I read in the papers every day  
9 during it. I don't remember those stories. It was  
10 just a very sad time.

11 Q Again, just to clarify this, I think I  
12 asked this again but want to make sure. I think you  
13 testified that you were aware that certain agents of  
14 the Clinton campaign, namely Mr. Blair, had spoken to  
15 Mr. Heuer during the campaign.

16 MR. COHEN: I don't think she identified  
17 Blair as the person who spoke.

18 BY MR. GIUFFRA:

19 Q Let's make sure it is clear. Was it your  
20 understanding some representatives of the Clinton  
21 campaign spoke to Mr. Heuer during the '92 campaign?

22 A Correct.

1 Q You never spoke to Mr. Heuer?

2 A No.

3 Q Do you know whether any representatives of  
4 the campaign ever spoke to Mr. McDougal during the  
5 campaign?

6 A It seems like they did, but I don't  
7 remember specifically.

8 Q You don't know who the people would have  
9 been who would have spoken to Mr. McDougal or  
10 Mr. Heuer?

11 A Not for sure, and I'm only supposed to tell  
12 you things for sure. I'm not supposed to guess.

13 Q That's not entirely true.

14 MR. COHEN: You ask the questions. She  
15 understands if she knows, she should tell you. I  
16 have told her and I will tell her now, she shouldn't  
17 guess or speculate.

18 BY MR. GIUFFRA:

19 Q If you are guessing, you can say I'm  
20 guessing but I think. You can say that. That's fair  
21 if you qualify your answer. If it is a vague  
22 recollection, it is a recollection. If you say you

1 don't have a recollection, which there has been --  
2 you haven't had a lot of recollection.

3 I want to be sure when you say you don't  
4 have a recollection, that means you don't have a  
5 recollection at all about a subject matter you are  
6 being asked about.

7 A I have a vague recollection that Mr. Blair  
8 communicated with Mr. McDougal through Mr. Heuer, and  
9 I learned that after the fact.

10 Q You don't have any other knowledge with  
11 regard to communications between --

12 A No. It would have been foolish not to have  
13 had communications with Mr. McDougal given what was  
14 going on and swirling during the '92 campaign.

15 Q Do you recall any concern within the  
16 campaign about some of the things Mr. McDougal was  
17 saying to the New York Times?

18 A Do I remember concern?

19 Q Yes.

20 A Yes.

21 Q What do you recall about the concern that  
22 was being expressed about what Mr. McDougal was

1 saying to the New York Times during the campaign?

2 A Just why was he saying these things.

3 Q Do you know if -- what was it that  
4 Mr. McDougal was saying that was causing  
5 consternation within the campaign?

6 A I forget the specifics. We would have to  
7 pull out the stories.

8 Q Do you know if Mr. Lyons met with  
9 Mr. McDougal?

10 A I don't know.

11 Q Or Mr. Heuer?

12 A I don't know.

13 Q But you personally did not meet with either  
14 person?

15 A No.

16 Q I will show you a document, Bates number  
17 S 12043-S 12046. Have you ever seen this document?

18 (Witness examined the document.)

19 A Yes.

20 Q You have seen this document?

21 A Yes.

22 Q When have you seen this document?

1 A It was in my files.

2 Q This was in your files during the campaign?

3 A Yes.

4 Q It was addressed to you?

5 A No.

6 Q You had a copy of it during the campaign?

7 MR. COHEN: There may be an identical copy  
8 of this in our production. It looks familiar.

9 BY MR. GIUFFRA:

10 Q You have seen this document before?

11 A It was in my files that I gave to Web  
12 Hubbell that are in Mr. Kendall's office. I don't  
13 think it was in that other stuff, no.

14 MR. COHEN: It just looks familiar.

15 THE WITNESS: It was one of many things  
16 that had been written about stuff before I got there,  
17 when I was trying to catch up on what had happened.  
18 I was not yet at the campaign on March 11.

19 BY MR. GIUFFRA:

20 Q Do you know whether Ms. Lynch ever met  
21 with --

22 A From this it would indicate that yes, she

1 was part of a meeting. But I don't have any personal  
2 knowledge of it.

3 Q Before you got there?

4 A Correct.

5 Q Was there discussion -- do you recall any  
6 discussion in the campaign about the fact that  
7 Mr. McDougal had given certain documents to Mr. Gerth  
8 relating to Whitewater?

9 A I don't remember specifically. We  
10 discussed so many things in the campaign.

11 Q No general recollection of documents that  
12 Mr. McDougal might have given to Mr. Gerth?

13 A No.

14 Q Do you recall any discussion during the  
15 campaign of trying to obtain documents for  
16 Mr. McDougal?

17 A Vaguely, but I don't remember anything  
18 about it.

19 Q Now, in the memo -- you may want to keep a  
20 copy in front of you, it says "he admitted that Susan  
21 McDougal and Hillary had their differences." Do you  
22 know what that refers to?

1       A    I don't.  
2       Q    Do you know of any differences between  
3 Susan McDougal and Hillary?  
4       A    I don't.  
5       Q    As far as you know, they got along fine?  
6       A    I don't know.  
7       Q    Just don't know one way or the other?  
8       A    No.  
9       Q    Then further on it does say, this is  
10 McDougal discussing his trial, "Sam said Bill helped  
11 me a lot; he even helped me prepare the opening  
12 statement."  
13       You don't know anything about that?  
14       A    No.  
15       Q    Never heard that before until today?  
16       A    I obviously read this before and I just  
17 forgot it.  
18       Q    Do you know whether Mr. McDougal ever  
19 indicated an interest in obtaining a job in the  
20 Governor's administration in 1992?  
21       A    I know that he was -- I don't know if it  
22 was in '92. I know he was very -- he was destitute

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1   and he needed income.  
2       Q    Do you know whether anyone gave him any  
3 money?  
4       A    I don't.  
5       Q    Do you know whether Mr. Blair ever gave him  
6 any money?  
7       A    Other than what I read in the newspapers  
8 recently.  
9       Q    The \$1000 he gave him to buy back the  
10 Whitewater investment of the Clintons?  
11       A    That's all I know about it.  
12       Q    Did you know about that at the time?  
13       A    No.  
14       Q    The first time you heard about it was when  
15 it was in the press?  
16       A    Correct.  
17       Q    Are you aware of something called lot 13 at  
18 Whitewater?  
19       A    Yes. It is a phrase that was very  
20 frequently used by friend and foe alike.  
21       Q    What do you know about lot 13?  
22       A    Just that it was a lot on the Whitewater



1 Development land, and I forget all the ins and outs  
2 of it. I hope I never have to remember that.

3 Q Have you ever asked the Governor about how  
4 Mrs. Clinton's firm came to be retained by Madison  
5 Guaranty?

6 A No.

7 Q Have you ever asked Mrs. Clinton about how  
8 her firm came to be retained by Madison Guaranty?

9 A No.

10 Q Have you ever heard statements by  
11 Mr. McDougal with regard to Bill Clinton coming down  
12 to his office and asking him to send some legal work  
13 to Mrs. Clinton?

14 A I have heard that.

15 Q Do you know anything more about those? Did  
16 you ever investigate those claims by Mr. McDougal?

17 A No.

18 Q Do you know anything more about whether  
19 they are accurate or inaccurate?

20 A I am incredulous at them.

21 Q That's a word my boss likes to use.

22 So, as far -- you don't know anything more

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1 about those statements by Mr. McDougal with regard to  
2 the retention of the Rose Firm.

3 Do you know a man named Rick Massey?

4 A No.

5 Q Never spoke to Rick Massey?

6 A No.

7 Q Do you know a woman named Patricia  
8 Heritage?

9 A No.

10 Q Have you ever met a man named Chris Wade?

11 A I might have.

12 Q Who is Chris Wade, if you know?

13 A He was from northern Arkansas, I think  
14 maybe Madison County, and was I think a realtor who  
15 was somehow or another involved in buying Whitewater  
16 or something.

17 Q Do you know -- have you ever met  
18 Mr. Wade --

19 A I may have met him. I don't remember.

20 Q Did you ever discuss Mr. Wade with the  
21 Governor?

22 A If I did, it was in no context of

1 Whitewater and Madison. It would have been that he  
2 was -- he was a major contributor in every campaign.

3 Q To the Governor?

4 A Correct.

5 Q Did you --

6 MR. COLE: Just perhaps to refresh  
7 Ms. Wright's recollection since this record  
8 undoubtedly will be scrutinized, there is some  
9 indication that Mr. Wade attended a fundraiser. You  
10 asked her a very broad question about whether she had  
11 ever seen Mr. Wade and I am trying to refresh her  
12 recollection.

13 MR. GIUFFRA: We will get to the  
14 fundraiser.

15 BY MR. GIUFFRA:

16 Q Did there come a time when you learned that  
17 the Clintons became concerned about what was going on  
18 with regard to their investment in Whitewater  
19 Development Corporation, probably '88-89?

20 A Well, yes. I mean, there was a lot of  
21 concern about Jim and obviously --

22 Q This was after he was kicked out of the

1 bank?

2 A Yes. There was a sense that the guy was  
3 deteriorating mentally and had been for a decade.

4 Q You were aware of his indictment; correct?

5 A When it happened I was.

6 Q That was in '89. Do you recall -- to make  
7 sure the record is clear, between '86 and his  
8 indictment in '89, were you aware he was under any  
9 kind of criminal investigation?

10 A Just the rumors.

11 Q Do you recall when the rumors started?

12 A No.

13 Q '88?

14 A No. I don't remember when.

15 Q Was it a year before the trial -- before  
16 the indictment?

17 A I don't remember.

18 Q No recollection.

19 After Mr. McDougal got -- do you know  
20 anything about sales of Whitewater lots to Mr. Wade?

21 A Just that there were.

22 Q Nothing more. Did you ever discuss it with

1 the Governor?  
2 A No.  
3 Q Never discussed it with Mrs. Clinton?  
4 A No.  
5 Q Do you know whether Mrs. Clinton ever  
6 attempted to obtain either a power of attorney for  
7 Mr. McDougal in connection with Whitewater?  
8 A I know that from research information we  
9 put together.  
10 Q During the campaign?  
11 A Correct.  
12 Q Let me show you a document, DKS N 12994.  
13 Take a look at the document.  
14 (Witness examined the document.)  
15 THE WITNESS: I need to go to the  
16 bathroom.  
17 (Recess.)  
18 MR. COHEN: The question is do you  
19 recognize the document.  
20 THE WITNESS: I don't recognize it, though  
21 it does ring a bell, and it clearly is a document I  
22 saw.

1 BY MR. GIUFFRA:  
2 Q You saw this document in 1989?  
3 A Correct.  
4 Q Let's look at the notations. "BW Gov per,"  
5 and it has a little notation. Is that a name?  
6 A No. It says "personal file." It is Bill's  
7 handwriting to file the letter with his personal  
8 things which his secretary kept.  
9 Q BW means you are supposed to see it?  
10 A No. All things for him came to me.  
11 Q You were the -- all the paper came through  
12 you?  
13 A Correct.  
14 Q So then you put it in a personal file for  
15 him?  
16 A No. Then I sent it to him. He indicated  
17 that it was to go in his personal files with his  
18 personal papers. So, it did. Yes, I probably -- it  
19 probably came back for me, but not necessarily.  
20 Q So that's the cc at the bottom where it  
21 says Bill Clinton. Hillary sends it over to Bill --  
22 A The interesting thing is she obviously sent

1 it through regular mail and it came through our  
2 mailroom and was logged in, stamped "received," got a  
3 log number so that we could trace it and make sure we  
4 answered it.

5 Q Did you ever discuss this letter with the  
6 Governor?

7 A No.

8 Q Do you recall anything more about it?

9 A It is just that generally there was a  
10 problem with Jim, and generally they had some  
11 extrication to do to make it clean. They were trying  
12 to be loving and respectful of his personal problems  
13 but take care of themselves. I think this is a  
14 masterful letter in that kind of approach.

15 Q Okay. Do you know Rosalee Wade?

16 A I may have met her.

17 Q Do you know anything more about her?

18 A That she is married to Chris Wade.

19 Q Anything else?

20 A No.

21 Q Do you know anything about Mr. McDougal's  
22 real estate development in Canada at Campobello

1 Island?

2 A I was aware of it. I laughed about it.

3 Q Do you recall anything more about it?

4 A Do I recall any more?

5 Q Yes.

6 A Well, Jim McDougal is a story teller, and  
7 he loves Democratic history stories. He was all  
8 enamored with the idea that he had this connection  
9 with FDR, and he thought Bill Clinton should be as  
10 excited as he, et cetera.

11 Q You became document custodian of the  
12 Clinton gubernatorial campaign records in '94; right?

13 A Yes.

14 Q You hadn't been document custodian before  
15 that time; correct?

16 A Correct.

17 Q Do you know who was the document custodian?

18 A I don't know.

19 MR. COHEN: That presupposes that there was  
20 one.

21 MR. GIUFFRA: That's what I was kind of  
22 thinking that may well have been.



1 MR. COHEN: Do you know if there was one?

2 THE WITNESS: I don't know.

3 BY MR. GIUFFRA:

4 Q Do you know Marlon Jackson?

5 A I do.

6 Q Who was the bank commissioner?

7 A For a while.

8 Q Do you recall approximately when he was the  
9 bank commissioner?

10 A No.

11 Q Do you recall the nature of his  
12 relationship with Governor Clinton?

13 A Long-time friends, acquaintances.

14 Q Were you aware that Governor Clinton had a  
15 loan with the Security Bank in Paragould, Arkansas?

16 A Yes.

17 Q When did you learn of that loan?

18 A Probably when I was helping them with the  
19 financial statements for our campaign bank loans.

20 Q What was that loan used for?

21 A I don't know.

22 Q Was it in way related to Whitewater

1 Development Corporation?

2 A I don't know.

3 Q Do you know as you sit here today whether  
4 it was related to Whitewater Development Corporation?

5 A I believe that's what the story is.

6 Q Did you ever ask Governor Clinton about  
7 this loan?

8 A About what its purpose was?

9 Q Yes.

10 A No.

11 Q Did you ever ask him about it in any -- did  
12 you ever discuss this loan?

13 A No. Just whether he had paid it off,  
14 whether he was current, just the jobs you do to try  
15 to make sure taxes are filed on time, payments are  
16 made on time, et cetera.

17 Q Do you know -- let me show you a document,  
18 289. It is a letter from Mr. Jackson to Charles  
19 Campbell.

20 MR. COHEN: Just a straight 289, no  
21 prefix?

22 MR. GIUFFRA: No prefix. It is dated

1 November 1, '85.

2 (Witness examined the document.)

3 BY MR. GIUFFRA:

4 Q Have you ever seen this letter before?

5 A Yes, probably. It rings some bell.

6 Q When did you see it?

7 A I'm sure I saw it contemporaneously. It

8 was again -- it again feeds to what I said of things

9 being paid on time.

10 Q You think that Mr. Jackson would have sent

11 a copy of this letter to the Governor? Do you recall

12 seeing it in that capacity?

13 A I believe so, yes.

14 Q Do you know whether Governor Clinton spoke

15 to Mr. Jackson about this extension agreement?

16 A I don't know about that. I do know that

17 there was a time when I made certain they had a

18 conversation about that loan, and I do remember now

19 that I associated that loan with something that Bill

20 had done to help McDougal or something. I don't know

21 the specifics of it.

22 Q Do you know what the Governor had done to

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1 help McDougal?

2 A I do not.

3 Q Do you know why you called Mr. Jackson?

4 A No, I don't.

5 Q Do you recall why would you have called

6 Mr. Jackson, as you sit here today?

7 A I'm sorry.

8 Q Do you know why you would have called

9 Mr. Jackson?

10 A I don't.

11 Q Did you ever discuss the loan with the

12 Governor?

13 A No.

14 Q Did you ever discuss the loan with

15 Mrs. Clinton?

16 A No.

17 Q Was it normal for the banking commission to

18 send letters to banks about loans that the Governor

19 had outstanding?

20 A To his bank. Unfortunately, it was not

21 normal. It was uncommon, and it was something he

22 shouldn't have been doing, especially on state

1 letterhead.

2 Q Was Mr. Jackson formerly employed by the  
3 Security Bank?

4 A Yes, that was his bank. He was the  
5 majority stockholder or something.

6 Q So, Mr. Jackson sent a letter on state  
7 stationery to the bank with regard to this loan that  
8 the Governor had; is that correct?

9 A Yes.

10 Q And the Governor knew about this?

11 A Who knows?

12 MR. COHEN: The question is do you know if  
13 the governor knew.

14 THE WITNESS: I have no idea.

15 BY MR. GIUFFRA:

16 Q Do you think the Governor knew about it?

17 A About which aspect?

18 Q About the fact that the banking  
19 commissioner was communicating with the Security Bank  
20 of Paragould about the fact of the loan outstanding.

21 A I'm sure he communicated with the bank.

22 Whether he did it on state letterhead I doubt that

1 Bill would have noticed.

2 Q Was Mr. Jackson the Governor's banker,  
3 personal loans, as far as you knew?

4 A I don't know that there were any other  
5 loans.

6 Q Did the Governor have any campaign loans  
7 with the Security Bank of Paragould?

8 A No, not during my --

9 Q Tenure.

10 A Right.

11 Q You would agree that it was improper for  
12 Mr. Jackson to have sent this letter on the state  
13 stationery?

14 A Yes.

15 Q Did you have a copy of this letter in your  
16 files during the campaign?

17 A I don't know.

18 Q Again, this would be an underlying  
19 document. You don't know whether you have this one?

20 A Underlying to what?

21 Q It would be an underlying document rather  
22 than a derivative document.

- 1 A Yes. I don't know that I had that. I also  
2 don't know that I would have recognized anything to  
3 do with Madison or Whitewater on that.
- 4 Q Was the issue here that the Governor  
5 guaranteed a loan?
- 6 A I don't know the issue.
- 7 Q You don't know anything about it? Did you  
8 ever learn anything more about this loan?
- 9 A If I did, I forgot it. I could care less.
- 10 Q Let me show you another document. 290 is  
11 the Bates number. Have you ever seen this document  
12 before?
- 13 (Witness examined the document.)  
14 Have you ever seen this document before?
- 15 A I don't know.
- 16 Q This is a letter from Mr. Jackson to  
17 Mrs. Clinton about the same loan dated March 27,  
18 1987.
- 19 A Uh-huh.
- 20 Q You don't remember ever seeing this  
21 before? Do you think you would have seen it?
- 22 A I don't know of any reason why I would

- 1 have.
- 2 Q You are unaware of any inquiries she had  
3 with regard to whether interest was paid on the note?
- 4 A That she had with --
- 5 Q Did you ever discuss with the Governor  
6 whether any interest was being paid on this note?
- 7 A No.
- 8 Q You don't know whether Mrs. Clinton had any  
9 concern about whether interest was being paid on this  
10 note?
- 11 A I know there was a concern because we knew  
12 that there had been some kind of lateness on it, and  
13 that was always of concern to me. I don't know -- it  
14 seems to me like they had thought it had been paid.  
15 I don't remember any specifics. I just -- I went  
16 into it only enough to be personally assured that  
17 this was being fixed and straightened out.
- 18 Q Here is a letter from -- here is a memo  
19 that has the Bates number -- it doesn't have the  
20 Bates number -- it is DKS N 13249.
- 21 A Where are you finding these Bates numbers?
- 22 Q It is years of practice.



1 A Where is the Bates number? Oh, there.

2 Q You look at as many documents as I have, it  
3 is kind of like brain surgery.

4 Do you ever recall seeing this memo from  
5 Peggy to you?

6 A Not specifically, but I obviously did. It  
7 was addressed to me and it has my handwriting all  
8 over it.

9 Q Who is Peggy?

10 A She was a member of the staff, campaign  
11 staff.

12 Q It just says "do not let BC get too close  
13 to Jim McDougal." This is when Clinton and McDougal  
14 were running for election at the same time?

15 A Right.

16 Q And McDougal was running for Congress?

17 A Correct.

18 Q This was strictly a political concern about  
19 not being too close to McDougal; is that right?

20 A Correct. This guy felt McDougal was a  
21 liability.

22 Q In a political sense?

1 A I'm trying to read my handwriting. These  
2 were out of our campaign files. This is interesting  
3 that you have it.

4 Q Can you read your handwriting in the  
5 right-hand corner?

6 A I can read it if it is there. I can't read  
7 that part that is not there.

8 Q What can you read?

9 A The impact -- the import of it was to call  
10 our county coordinator and see if this guy wanted to  
11 do a deal.

12 Q Who is Joe McCutcheon?

13 A Just a supporter in Fort Smith.

14 Q During the Governor's campaign, did you  
15 ever use cash in connection with get out the vote  
16 operations?

17 MR. COHEN: I'm going to object to that as  
18 beyond this resolution.

19 MR. GIUFFRA: It relates to the Bank of  
20 Perry County issue.

21 MR. COHEN: That loan was in 1990, which  
22 had nothing to do with that campaign. If you want to

1 ask her if she ever used cash in connection with the  
2 Bank of Perry County, I would be glad to have her  
3 answer that question. Otherwise, it is beyond the  
4 resolution.

5 MR. GIUFFRA: Just to make a record, we  
6 would argue that it is relevant because it shows a  
7 pattern that was followed through for the '90  
8 campaign. I'm not --

9 MR. COLE: Let me --

10 MR. GIUFFRA: I'm not looking to have an  
11 hour discussion about it.

12 MR. COLE: I want to state the Minority  
13 view. We would concur with Mr. Cohen's reading of  
14 it.

15 MR. GIUFFRA: He would instruct the witness  
16 not to answer any questions pertaining to using cash  
17 in connection with get out the vote campaigns.

18 MR. COHEN: In connection with --

19 BY MR. GIUFFRA:

20 Q You don't know anything about the use of  
21 cash in connection with the 1990 campaign?

22 A No.

1 Q You don't know whether any cash was used in  
2 connection with the 1990 campaign?

3 A I know from press reports.

4 Q You were an experienced campaign worker in  
5 Arkansas. You ran the Governor's campaigns for 10  
6 years.

7 A Not 10 years, but a long time.

8 Q Would you have expected cash to have been  
9 used during the 1990 gubernatorial campaign in  
10 connection with get out the vote operations?

11 A I knew nothing about the way the 1990  
12 campaign was run.

13 MR. COHEN: I don't think you can turn her  
14 into an expert witness with this question,  
15 Mr. Giuffra. But it was a nice end run for which I  
16 will give you full credit.

17 MR. GIUFFRA: You are going to instruct her  
18 not to answer any questions based on her experience  
19 with regard to prior campaigns with regard to the use  
20 of cash in connection with get out the vote campaigns  
21 in connection with the 1990 campaign?

22 MR. COHEN: Yes.

1 MR. GIUFFRA: Thank you, sir.

2 BY MR. GIUFFRA:

3 Q Did the campaign take out loans in '82, '84  
4 and '86 at the Perry County Bank?

5 A No.

6 Q Did they take any loans out during the  
7 '80s?

8 MR. COLE: Again.

9 MR. COHEN: You can go first or I will go  
10 first. I have no objection to the Perry County Bank,  
11 just to establish it wasn't part of the prior  
12 campaigns -- the prior campaigns had no relationship  
13 with Perry County Bank.

14 MR. GIUFFRA: That's all I'm asking about.

15 BY MR. GIUFFRA:

16 Q It is your testimony that the Clinton  
17 gubernatorial campaigns took out no loans or Bill  
18 Clinton with the Perry County Bank in the '80s as far  
19 as you knew?

20 A Correct.

21 Q When did Bruce Lindsey start working on the  
22 Clinton gubernatorial campaign?

1 A The first time he was ever really an  
2 official was the '90 campaign. He did some volunteer  
3 efforts in previous ones. I don't remember dates,  
4 years. There were so many of them, Mr. Giuffra.

5 Q Let's turn to the '84 campaign. You were  
6 the campaign manager in connection with the '84  
7 campaign?

8 A Correct.

9 Q During the '84 campaign, did the Governor  
10 take out any loans to fund that campaign?

11 MR. COHEN: I have the same objection  
12 there.

13 MR. GIUFFRA: I can tell you exactly where  
14 it is relevant. It is relevant to the '85  
15 fundraiser.

16 MR. COHEN: Go from the '85 fundraiser  
17 back. I know where you are going. If you start  
18 there, I will not object. You want to ask questions  
19 about to what extent the Madison fundraiser was used  
20 to pay off loans.

21 BY MR. GIUFFRA:

22 Q You are aware of an April 4, 1985

1 fundraiser held at Madison Guaranty for the Clinton  
2 gubernatorial campaign; correct?

3 A I am.

4 Q Who organized that fundraiser?

5 A Jim McDougal.

6 Q Did the Governor speak to Jim McDougal  
7 about organizing that fundraiser?

8 A Probably.

9 Q Did you speak to Jim McDougal about  
10 organizing the fundraiser?

11 A No.

12 Q Do you know what other representatives of  
13 the Governor might have spoken to Jim McDougal about  
14 organizing the fundraiser?

15 A Our scheduling office.

16 Q This would have been done between the  
17 Governor and Jim McDougal, as far as you knew?

18 A Right.

19 Q So the Governor would have asked Jim to  
20 have a fundraiser for him in 1985?

21 A Or Jim may have offered to have one.

22 Q Now, what was the purpose of this

1 fundraiser?

2 A To raise some political money.

3 Q And was there a financial deficit at the  
4 end of the '84 gubernatorial campaign?

5 A Yes.

6 Q What was the amount of that deficit?

7 A I don't recall.

8 Q About \$30,000 or a little more?

9 A I don't recall. It was more than that.

10 Q Can you give us an approximate amount?

11 A I can't. I didn't go back and look at the  
12 records.

13 Q Did the Governor take out any loans in  
14 connection with the '84 campaign that were not paid  
15 off by April of '85?

16 A Correct.

17 Q Do you recall what bank the loan was with?

18 A Am I answering this?

19 MR. COHEN: Yes.

20 THE WITNESS: Bank of Cherry Valley.

21 BY MR. GIUFFRA:

22 Q Do you recall the amount of the loan?



1 A No.

2 Q Do you recall the balance that was  
3 outstanding on the loan as of April '84?

4 A No.

5 Q Do you recall anything more about the  
6 circumstances surrounding this loan?

7 A No. I mean I have forgotten the details.  
8 I didn't refresh my memory on them.

9 Q Was this a personal loan to the Governor?

10 A Yes. All loans for campaigns had to be.

11 Q You don't recall how much the loan was for?

12 A No.

13 Q The Governor made, what, \$35,000 a year?

14 A Correct.

15 Q You don't recall the amount of the loan?

16 A I don't.

17 Q You don't remember whether there was any  
18 security for this loan, or do you remember? Do you  
19 know if there was any security for this loan?

20 A I got into trouble in the press about this  
21 because it was clear I didn't know really what a  
22 secured loan meant. I know that we fulfilled the

1 requirements, the normal requirements for a bank to  
2 make such a loan.

3 Q Were there assets backing the loan? Did  
4 the Clintons put up any assets to back the loan?

5 MR. COHEN: Hold as against payment of the  
6 loan.

7 THE WITNESS: I know we filed financial  
8 statements with the bank. That's all I know.

9 MR. COHEN: There were no assets pledged  
10 like a house or a car or a boat?

11 THE WITNESS: No.

12 BY MR. GIUFFRA:

13 Q It was an unsecured loan?

14 A I don't know the terminology.

15 Q Who ran the Bank of Cherry Valley at this  
16 point?

17 A Which point?

18 Q '84-85.

19 A Maurice's son might be running it then.

20 Q What was the name?

21 A Maurice Smith. It is Mark Smith. I don't  
22 remember who was running it, but one of the Smiths.

1 Q You don't know anything more about the  
2 circumstances surrounding the making of this loan to  
3 the Governor?

4 A I would know a lot about the  
5 circumstances. I don't recall them. I didn't  
6 refresh my mind on the campaign financing stuff on  
7 the gubernatorial races that I ran because I didn't  
8 think that they were of interest to this Committee.

9 MR. COHEN: And it is not within Senate  
10 Resolution 120.

11 BY MR. GIUFFRA:

12 Q Did there come a time during the '80s when  
13 Maurice Smith was appointed to a position in the  
14 Arkansas government or a board?

15 A I have answered that.

16 Q What was the answer? He was executive  
17 secretary?

18 A And then he went to the University of  
19 Arkansas board of trustees and then became the  
20 director of the highway department.

21 Q Do you know when he became the director of  
22 the highway department?

1 A I don't know.

2 Q Did you attend the fundraiser in April of  
3 '85 at Madison?

4 A I did.

5 Q Where was the fundraiser held?

6 A At Madison Guaranty.

7 Q This would be at the art deco main office  
8 of Madison?

9 A In the lobby.

10 Q The Governor was present at the fundraiser?

11 A Yes.

12 Q Was Mrs. Clinton present?

13 A No.

14 Q Now, when did the -- how much in advance of  
15 the fundraiser which was held I believe on April 4,  
16 '85 did the Governor and Jim McDougal discuss they  
17 were going to be having this fundraiser?

18 A I don't remember.

19 Q That's a long way of asking how much  
20 advance planning was there for this fundraiser.

21 A I don't know.

22 Q Was it an event that was put together

1 rather quickly?  
2 A I don't remember.  
3 Q Was it put together a month or two in  
4 advance?  
5 A I don't remember.  
6 Q Let me show you a document, Bates number  
7 DKSN 13356.  
8 (Witness examined the document.)  
9 This is a memo from a Gatty to BC dated  
10 3/26/85. Who is Gatty?  
11 A Judy Gatty was the scheduling secretary at  
12 this time.  
13 Q Do you think you would have seen this memo?  
14 A Yes.  
15 Q Do you recall seeing the memo?  
16 A I certainly recall seeing it recently.  
17 Q And --  
18 MR. COHEN: Let's help you here. Is your  
19 handwriting on that memo?  
20 THE WITNESS: I didn't look.  
21 (Witness examined the document.)  
22 THE WITNESS: No, but I was in on all

1 scheduling decisions. There weren't scheduling  
2 documents that didn't go past me.  
3 BY MR. GIUFFRA:  
4 Q If you could read the Governor's  
5 handwriting. It says "good."  
6 A "Really need at least an hour." The  
7 request was to come by for 30 minutes. What he was  
8 saying was that he needed at least an hour,  
9 particularly since Fulbright was going to be there  
10 and he wanted to visit. Fulbright, of course, was  
11 not there.  
12 Q Does this memo refresh your recollection as  
13 to how much preplanning went into this fundraiser?  
14 A No. It looks like it was -- this was not a  
15 big elaborate fundraiser with a dinner and  
16 invitations and all that.  
17 Q It was put together rather --  
18 A McDougal was raising money and he wanted an  
19 event where people could shake the Governor's hand  
20 for it.  
21 Q Do you recall how much preplanning went  
22 into this fundraiser? Not very much?

1 A No. It wasn't one we were putting on.

2 Q Were there other instances in which Jim  
3 McDougal raised money for the Governor that you are  
4 aware?

5 A No.

6 Q This is the only time you are aware of Jim  
7 McDougal raising money for the Governor?

8 A Correct.

9 Q Do you have any understanding as to what  
10 Jim McDougal's motives were for having this  
11 fundraiser?

12 A My major memory association is that he  
13 wanted the event partly because it would be fun to  
14 have Fulbright around. Mainly he was trying to forge  
15 an end of the cold war between Bill and Jim Guy. We  
16 had had nothing but tension still since the '82  
17 primary with Jim Guy.

18 Q Do you remember a conversation with  
19 Mr. McDougal to that effect?

20 A No, I wouldn't have had a conversation with  
21 Mr. McDougal about that.

22 Q As far as you know, this was the only

1 fundraising activity that Mr. McDougal ever did for  
2 Governor Clinton?

3 A Correct.

4 Q Do you know how much money was raised at  
5 this fundraiser?

6 A We left the fundraiser with \$22,000.  
7 Subsequent donations were sent in that he collected  
8 up until the total was \$30,500.

9 Q When you say you left the fundraiser with  
10 \$22,000 -- strike that.

11 You left the fundraiser with \$22,000. You  
12 mean -- after the fundraiser was over, did McDougal  
13 hand you the checks?

14 A I don't know if it was over. I got them  
15 from him.

16 Q That day?

17 A At the fundraiser.

18 Q He handed them to you?

19 A Correct.

20 Q Didn't hand them to the Governor?

21 A No.

22 Q Do you recall approximately how many people



1 attended?

2 A I didn't know most of the people there. It  
3 seems to me like there were maybe 15 to 20 people and  
4 that they included perhaps some of the employees of  
5 the Madison Guaranty.

6 Q So maybe there were only 10 or 12 people at  
7 the fundraiser --

8 A Yes.

9 Q -- who were donors?

10 A Yes.

11 Q Was there any food at the fundraiser?

12 A Yes.

13 Q Do you recall anything about the food?

14 A I don't remember. It wasn't memorable  
15 food.

16 Q Did he have any music?

17 A No.

18 Q Did Clinton speak?

19 A No.

20 Q Didn't speak? Just came and shook hands  
21 and that was it?

22 A Yes, just visited with each person there.

1 In the lobby they put up a refreshment table. I  
2 think they had wine and potato chips.

3 Q Did -- Senator Fulbright did not appear at  
4 the fundraiser?

5 A No. I was very disappointed.

6 Q What was the limitation, if any, for  
7 campaign contributions in 1984?

8 A \$1500 per election.

9 Q So you could do 1500 primary and 1500  
10 post-primary? You could give 1500 primary and 1500  
11 for a general election?

12 A Correct.

13 Q Could you give 3000 in '85 after the  
14 general election had already been held? Is that  
15 permissible?

16 A Correct.

17 Q If somebody had already given 1500 and they  
18 gave another 3000, that would have been a violation  
19 of the election law?

20 A Yes.

21 Q As far as you know, did any of the  
22 contributors of the '85 Madison fundraiser violate

1 the election laws with regard to the amount which  
2 they made contributions to the Governor?

3 MR. COHEN: I will object to that one.

4 One, it calls for her to reach a legal conclusion.

5 Second, this resolution does not contemplate, nor  
6 does its legislative history leave any question but  
7 that this area is not part of the Committee's  
8 resolution, that is, compliance with Arkansas  
9 election laws.

10 MR. GIUFFRA: This is one I beg to differ  
11 on.

12 MR. COHEN: We will respectfully differ.

13 MR. GIUFFRA: Whether she knows whether any  
14 of these were made in violation of Arkansas law is  
15 clearly a relevant fact. It is something I can  
16 assure you will come up at the hearing. It is  
17 something that falls within this resolution in any  
18 number of ways.

19 MR. COHEN: My recollection of the drafting  
20 of this -- and it is history and some of it is  
21 anecdotal, and some I suspect is memorialized in the  
22 record -- is that there was a desire to have

1 basically compliance with Arkansas election laws as  
2 part of the ambit of this committee's work, and that  
3 was negotiated away, along with other things.

4 Consequently, the Madison fundraiser is  
5 included and I have no objection obviously. I have  
6 not objected to questions on that. In terms of  
7 compliance with Arkansas campaign law, that was not  
8 a -- moreover, you asked her for something that  
9 requires a legal conclusion which she is not capable  
10 of answering.

11 MR. GIUFFRA: First of all, with all due  
12 respect --

13 MR. COLE: I think this debate -- you can  
14 ask her about the amounts of money that were  
15 contributed, if she knows. That avoids the legal  
16 conclusion problem and gets the information.

17 MR. GIUFFRA: I probably know as much about  
18 the drafting of the resolution as any human being on  
19 the planet, and I don't remember any intent to  
20 exclude whether the contributions made in connection  
21 with the Madison Guaranty fundraiser were outside the  
22 scope of the resolution.

1 I think quite clearly if you read the  
2 resolution it pretty much calls for any subject that  
3 has in any way bearing on Madison Guaranty. I can  
4 pull out the resolution.

5 MR. COHEN: What would the legislative  
6 purpose be for an inquiry into compliance with  
7 Arkansas campaign laws?

8 MR. GIUFFRA: "Conduct the investigation,  
9 public hearings into and study of all matters that  
10 intend to fulfill the full facts about the operation,  
11 solvency and regulation of Madison, activities, tax  
12 liability of Whitewater," and I think whether there  
13 were contributions that were made in violation of law  
14 at this Madison Guaranty fundraiser certainly falls  
15 within the resolution, section 1(b)(3)(a) and (b).

16 The other stuff I'm willing to --

17 MR. COLE: I think this is an unnecessary  
18 debate. I would agree with you --

19 BY MR. GIUFFRA:

20 Q Do you know as you sit here, have you been  
21 advised by anyone whether any of these contributions  
22 were made in violation of Arkansas law?

1 A I don't understand your question.

2 Q You testified that Arkansas law had a  
3 limitation of \$1500 primary and 1500 general;  
4 correct?

5 A Correct.

6 Q Do you know whether any of the contributors  
7 at the April 1985 Madison Guaranty fundraiser  
8 violated Arkansas law with regard to contribution  
9 limits in making their contributions in connection  
10 with this fundraiser?

11 A I know that none of those contributions  
12 exceeded the legal limits.

13 Q But when considered in connection with  
14 other contributions that those contributors made  
15 prior to the fundraiser, do you know whether there  
16 was a violation of Arkansas law in connection with  
17 those contributions?

18 A I know there was not.

19 Q You believe there was no violation. Have  
20 you attempted to ascertain whether there was any  
21 violation?

22 A I always did. I always checked to make



1 sure people hadn't gone over a maximum.

2 Q You would have checked after this  
3 fundraiser to make sure no one had gone over the  
4 maximum?

5 MR. COHEN: I think I have given you more  
6 latitude than I had originally planned to in an  
7 effort to avoid this dispute. As to what she did in  
8 order to ascertain compliance with Arkansas election  
9 law thereafter I think is significantly beyond where  
10 you are entitled to go. I understand we disagree  
11 with each other, which lawyers do all the time.

12 MR. GIUFFRA: Read the last question back.  
13 (The reporter read the record as requested.)

14 MR. COHEN: That's a question to which I  
15 would direct her not to answer on the grounds that I  
16 previously articulated.

17 BY MR. GIUFFRA:

18 Q During the '92 presidential campaign, did  
19 any issue arise with regard to whether contributions  
20 had been made in excess of maximum limits at this  
21 April '85 fundraiser?

22 MR. COHEN: Could I hear that back?

1 THE WITNESS: Can I talk to you?

2 MR. COHEN: Certainly.

3 MR. GIUFFRA: Bathroom break for us all.  
4 (Recess.)

5 MR. COHEN: I'm not going to withdraw my  
6 objection, but I will let her answer and will not  
7 waive that objection.

8 MR. GIUFFRA: You want to have the question  
9 read back?

10 MR. COHEN: The question is did you check  
11 afterwards whether the amounts were in excess of  
12 permissible limits.

13 BY MR. GIUFFRA:

14 Q And the answer?

15 A I did.

16 Q What did you ascertain? Were the checks in  
17 violation of contribution limits?

18 A They were not. If one of the donors had  
19 given the maximum for either of the previous  
20 elections, then the donation was allocated for the  
21 next election.

22 There has been a mistaken verbiage around



1 this fundraiser that it was to pay off a debt. It  
2 was a political fundraiser. Some of the money was  
3 applied to the previous campaign where people had not  
4 contributed and applied to paying off that loan. The  
5 rest of the money was applied to current political  
6 expenditures and became allocated as 1986 campaign  
7 contributions.

8 MR. GIUFFRA: Off the record.

9 (Discussion off the record.)

10 BY MR. GIUFFRA:

11 Q Do you know -- did Mr. McDougal solicit the  
12 contributions at this fundraiser?

13 A Yes.

14 Q Did anyone assist him?

15 A I know he arranged the fundraiser and the  
16 contributions. I don't know who asked the people or  
17 whether he delegated it out or had a joint activity.

18 Q Do you know whether the Governor Clinton  
19 made any phone calls in connection with this  
20 fundraiser?

21 A I don't.

22 Q Do you know -- did Jim Guy Tucker attend

1 the fundraiser?

2 A Yes, he did.

3 Q Did he speak at the fundraiser?

4 A There weren't speeches.

5 Q Senator Fulbright was not present?

6 A Correct.

7 Q Do you know anything about whether any  
8 Arkansas state departments, agencies or  
9 instrumentalities ever leased any real property from  
10 any entity controlled or owned by Madison? That's a  
11 very --

12 A Why don't you ask me what you want to  
13 know?

14 MR. COHEN: We both understand what you  
15 really want to ask. Why don't we now move to talk  
16 about that.

17 BY MR. GIUFFRA:

18 Q What do you know about any state leases  
19 involving Madison Guaranty?

20 A I am aware that ADFA leased office space  
21 for Madison Guaranty.

22 Q Do you remember when that was?

1 A I don't remember years. I'm sorry.

2 Q Was it '86?

3 A I don't remember years.

4 Q '87?

5 A I don't remember years. I would have to  
6 have the documents in front of me. You are the one  
7 who has those with the numbers.

8 Q Do you have any other knowledge with regard  
9 to, just independently without looking at documents,  
10 any ADFA leases involving Madison?

11 A I do. I remember fairly distinctly the  
12 decision for ADFA to move to the Madison Guaranty  
13 building.

14 Q This is the building where the fundraiser  
15 was held?

16 A That's correct.

17 Q This was after the bank had -- after  
18 McDougal was removed from the bank?

19 A Those things were not related, so I don't  
20 know that I linked them up.

21 Q The main ADFA -- the main Madison  
22 headquarters became the ADFA headquarters; is that

1 right?

2 A I think they just leased part of the  
3 building, some office space in the building.

4 Q What do you recall about the leasing of  
5 that office space to ADFA, other than the mere fact  
6 that it was leased? Do you know whether the Governor  
7 was involved at all in the decision to lease the  
8 office space to ADFA?

9 A No. We didn't make decisions about  
10 leasing, particular leases, and it would have been  
11 state building services who matched available space  
12 and people who were desirous of having state leases  
13 with agencies.

14 At some point we became aware in the  
15 Governor's office that ADFA looked like a match for  
16 some space at Madison. I don't recall whether the  
17 Governor -- I rarely informed him of routine state  
18 business matters like that.

19 Q How did it come to your attention that  
20 there might be a match between Madison and ADFA?

21 A It came to my attention because there was  
22 some resistance on the part of ADFA to moving there,

1 and this all stemmed from a policy of the Governor's  
2 that all things being equal and where economically  
3 feasible, that we would help keep downtown Little  
4 Rock alive.

5 Sometimes agencies didn't particularly want  
6 to be in downtown Little Rock, and I would have  
7 conversations with the agency directors or department  
8 directors about what the problems were, and state  
9 building services would be working with the owners to  
10 see if they could be accommodated.

11 Quite frankly, in many cases, the concern  
12 was racist in its bearing, and it was in part my  
13 responsibility to try to determine and ascertain  
14 where that was the barrier, because that was one we  
15 weren't going to allow to be a barrier.

16 Q Do you recall any discussion of any kind of  
17 leases in Madison, state leases in Madison at this  
18 fundraiser or about the time of the fundraiser?

19 A No.

20 Q Did you ever tell Bruce Lindsey that Bill  
21 Clinton organized the fundraiser with McDougal?

22 A No.

1 Q Did you ever -- you discussed the '85  
2 fundraiser with Mr. Lindsey; correct?

3 A Right.

4 Q What do you recall telling him about this  
5 fundraiser?

6 A Actually, I think our discussion was about  
7 questions we were being asked and assertions that  
8 were being made around the fundraiser. The  
9 discussion was a takeoff from there.

10 It wasn't like I said today's thoughtful  
11 topic I would like for us to discuss is a fundraiser  
12 that was held at Madison. It just didn't happen that  
13 way. It happened about a conversation around a  
14 specific assertion.

15 Q Now, were you aware of the fact that a  
16 number of the contributions at this April '85  
17 fundraiser were in the form of cashier checks?

18 A Yes.

19 Q What do you know about the making of these  
20 cashier's checks?

21 A Nothing.

22 Q You just got the checks and left the

- 1 fundraiser; correct?  
2 A Correct.  
3 Q Do you know anything about the cashier's  
4 check made out in the name of J.W. Fulbright for  
5 \$3000?  
6 A I know that we received one.  
7 Q That's all you know about it?  
8 A And that I deposited it.  
9 Q Nothing more?  
10 A That's correct.  
11 Q You don't know whether Senator Fulbright  
12 approved of the issuance of this cashier's check?  
13 A I had no reason to believe otherwise.  
14 Q Did you ever check into whether he approved  
15 into the issuance of this cashier's check in his  
16 name?  
17 A No.  
18 Q Do you know a man named Mr. Peacock?  
19 A No. I mean, I do know a man named  
20 Mr. Peacock, not that Mr. Peacock.  
21 Q Do you know the Peacock I'm thinking of is  
22 Kenneth Peacock?
- 

- 1 A I don't know him.  
2 Q Do you know whether there was a cashier's  
3 check in the name of Mr. Peacock at this fundraiser?  
4 A I do know that there was.  
5 Q Do you know anything about that cashier's  
6 check?  
7 A Just what I read in the newspapers  
8 recently.  
9 Q You don't know whether Mr. Peacock attended  
10 the fundraiser?  
11 A I don't.  
12 Q You don't know who he was?  
13 A I don't know.  
14 Q Do recall any of the people who attended  
15 the fundraiser? I guess you testified Mr. McDougal  
16 was there.  
17 A Yes.  
18 Q Was Susan McDougal there?  
19 A Yes.  
20 Q Jim Guy Tucker was there?  
21 A Yes.  
22 Q Was Mr. Wade there?



1 A I don't recall. I don't believe he was. I  
2 think his was one of the checks we got subsequent to  
3 the fundraiser. So, that's why I'm assuming he  
4 wasn't there.

5 Q This is after the fundraiser?

6 A Yes.

7 Q If I gave you a list of the persons who  
8 contributed, could you tell me who contributed at the  
9 fundraiser? Would that be based on the date of the  
10 check or you are not sure?

11 MR. COHEN: If that's a piece of  
12 information you want, if you give us the documents we  
13 produced to you on the subject, it may be easier than  
14 something you assembled.

15 MR. GIUFFRA: I just want to identify the  
16 checks that came before and after. That's a fair  
17 thing; right?

18 MR. COHEN: Okay. If you give us those  
19 documents, we will do it for you promptly.

20 MR. GIUFFRA: I want to make sure I am not  
21 going too far.

22 BY MR. GIUFFRA:

1 Q I will give you everything. Tell me which  
2 checks you got at the fundraiser and which you got  
3 after the fundraiser.

4 MR. COHEN: We produced thank you notes.  
5 Can we have those, please.

6 MR. COLE: Let's go off the record until we  
7 find the documents.

8 (Recess.)

9 BY MR. GIUFFRA:

10 Q Ms. Wright, in looking at your records,  
11 what can you tell us about when the checks were  
12 received in connection with this fundraiser?

13 A I believe that the ones that I left the  
14 fundraiser with were David Henley, Brett Ferris, Jim  
15 McDougal, Smith Imports, West Arkansas Construction,  
16 Larry Kuca, Robert and R.D. Randolph, James Henley,  
17 Dean Landrum, County Cable TV, Ken Peacock,  
18 J.W. Fulbright.

19 I believe that a subsequent mailing  
20 enclosed the Chris and Rosalee Wade and the Eugene  
21 and Alice N. Harris. And then yet a subsequent  
22 arrival included John Latham and Pat Harris.

1 Q The first mailing that would have been just  
2 a mailing from McDougal to you or to the Governor?

3 A It actually came -- we had been working  
4 with McDougal's office to try to get addresses for  
5 the thank you letters, and when the note arrived, it  
6 makes reference to enclosing Mrs. Harris's check, and  
7 because of the placement here, there is a very good  
8 chance that the Wade check was also in that  
9 envelope.

10 Q That is BW 35? That's the document that we  
11 are looking at. CCBW 35, that's the basis for that.  
12 That's a letter from Ms. Straithairn to the  
13 Governor's office?

14 A Yes.

15 Q Ms. Straithairn was Mr. McDougal's  
16 secretary?

17 A If you say so.

18 Q You don't know?

19 A More than likely it would be someone in his  
20 office we were working with to make sure we had  
21 addresses for thank you letters.

22 Q The second set of checks you received, is

1 that based on the dates of the checks? What is the  
2 basis for you thinking that's when those came out?

3 A They were in a subsequent deposit.

4 Q That would be the Hamilton, Latham and  
5 Harris checks?

6 A Correct.

7 Q I want to try -- those three checks --  
8 that's on page BW 39.

9 A Correct.

10 Q There are some other checks that appear on  
11 later --

12 A They have nothing to do with the McDougal  
13 fundraiser.

14 Q 40 through 44. What do these checks have  
15 to do with?

16 A We were raising money from other people all  
17 the time. Most of the bank loan was paid off with  
18 money from other people. This is just other money  
19 that we received.

20 Q So, these other checks --

21 A Jim McDougal was not our major fundraiser.

22 Q These other checks that you produced -- I

1 want to try to understand why you produced them.

2 MR. COHEN: They could have been produced  
3 but they were part of the deposit.

4 BY MR. GIUFFRA:

5 Q These were made in connection with the  
6 deposit.

7 A There are two deposits that include checks  
8 of money raised by Jim McDougal.

9 Q One is 4/29/85 and on Bates BW 16 there is  
10 a second for 18,165 and that is dated 5/28/85. That  
11 also contained some McDougal checks; correct?

12 MR. GIUFFRA: Off the record.

13 (Recess.)

14 BY MR. GIUFFRA:

15 Q Mrs. Wright, did there come a time when you  
16 learned that the 1985 Madison fundraiser was the  
17 subject of an RTC criminal referral?

18 A I don't know that I ever learned that. I  
19 tell you what I do remember, and it was either a  
20 reporter asking me about it or from press reports,  
21 though I do think I got asked about it before it  
22 showed up in the press, was that that campaign

1 committee had been included in the referral.

2 Q Do you know who told you?

3 A A reporter. I don't know.

4 Q Not Mr. Lindsey?

5 A No.

6 Q Did you ever discuss with Mr. Lindsey the  
7 fact that the Bill Clinton campaign committee was  
8 listed as a suspect in an RTC criminal referral?

9 A Discuss is probably an overstatement of  
10 what -- there was an acknowledgment between us that  
11 that was the case.

12 Q Do you recall when that was?

13 A No.

14 Q Did you ever discuss the fact that the  
15 Clinton campaign committee was listed as a suspect in  
16 an RTC criminal referral with President Clinton?

17 A I don't believe so.

18 Q Mrs. Clinton?

19 A I don't believe so.

20 Q Maggie Williams?

21 A No.

22 Q Susan Thomases?

1 A No.

2 Q Bernie Nussbaum?

3 A No.

4 Q Have you ever discussed anything relating  
5 to Madison or Whitewater with Bernie Nussbaum?

6 A No.

7 Q But you know Bernie Nussbaum; right?

8 A Yes.

9 Q You were not involved in the '90 campaign;  
10 correct?

11 A Correct. Well, I was not in the campaign  
12 per se. I was the state party chair. So, I was  
13 campaigning on behalf of the ticket. I did during  
14 the general election -- after I had become the party  
15 chair, I did go to some of the strategy meetings.

16 Q Were you aware of the fact that Governor  
17 Clinton had taken out some loans with the Bank of  
18 Perry County?

19 A From the newspapers.

20 Q But you never discussed it during any  
21 campaign meetings?

22 A No. I wasn't involved with the finances of

1 that campaign.

2 Q Was there any discussion, do you recall, in  
3 connection with the 1990 campaign of get out the vote  
4 drives?

5 A No.

6 Q Do you recall any discussion of needing  
7 cash to fund get out the vote drives?

8 A What do you mean?

9 Q Do you recall any discussion during any of  
10 the meetings you attended during the 1990 campaign  
11 about use of cash in connection with get out the vote  
12 drives?

13 THE WITNESS: Can I talk to you, please?

14 MR. COHEN: Of course.

15 (Witness conferred with counsel.)

16 BY MR. GIUFFRA:

17 Q Go ahead, Ms. Wright.

18 A I proposed to Mr. Lindsey that the Clinton  
19 campaign allow me to coordinate the get out the vote  
20 for the ticket so that I could approach the other  
21 nominees and everybody pooled their get out the vote  
22 resources so there wouldn't be so much duplication.



1 That proposal was not considered, and so we never  
2 talked in detail about it.

3 MR. COHEN: It is not technically  
4 responsive, but I don't want to have to beat around  
5 the bush.

6 BY MR. GIUFFRA:

7 Q Do you recall any discussion about the use  
8 of cash in connection with the Governor's get out the  
9 vote drive in the '90 campaign?

10 A Not past what I just mentioned.

11 Q Do you know whether cash was used in  
12 connection with the --

13 A From the newspapers I know that. I was not  
14 involved -- I have no firsthand knowledge.

15 Q Do you have any belief as to whether cash  
16 was used in connection with the '90 campaign?

17 A I --

18 Q Was used in connection with get out the  
19 vote drives?

20 A I have read facts that they did.

21 Q You learned that from newspaper accounts?

22 A Yes.

1 Q Did Bruce Lindsey ever discuss whether cash  
2 was used in connection with the '90 campaign with  
3 you?

4 A No.

5 Q You have never discussed with  
6 Mr. Lindsey -- I want to make sure we have this  
7 right. You never discussed with Mr. Lindsey whether  
8 cash was used in connection with get out the vote  
9 drives in the '90 campaign?

10 A After the fact I might have.

11 Q Do you recall anything about those  
12 discussions?

13 A I have to tell you that I don't remember  
14 whether I actually said to him what I thought or  
15 whether I was just having these conversations inside  
16 my head.

17 Q What do you think you said?

18 A That they were stupid in the way they  
19 handled it, and they should have let me do it.

20 Q Why were they stupid in the way they  
21 handled it?

22 A I mean, you know full well how they handled

1 it as much as I do.

2 Q I actually don't know how they handled it.  
3 What is your understanding as to how they handled  
4 it?

5 This is squarely within the --

6 MR. COHEN: I didn't object. As you go  
7 through this, explain where you have your  
8 understanding from.

9 THE WITNESS: If the press accounts are  
10 accurate about the amount of cash that they withdrew  
11 from the bank, then I find that excessive and curious  
12 in manner.

13 BY MR. GIUFFRA:

14 Q Why do you find it excessive and curious in  
15 manner?

16 A Excessive in amount and curious in manner  
17 and that's all.

18 Q Why do you believe it was excessive in  
19 amount?

20 A I mean, what do I know? I wasn't doing get  
21 out the vote in 1990.

22 Q That amount of money based on your

1 experience in Arkansas campaigns for governor seems  
2 to be excessive?

3 A Four years earlier I hadn't spent that much  
4 money.

5 Q How much money did you spend?

6 A I don't remember.

7 Q How much money do you understand they spent  
8 in the '90 campaign?

9 A I don't remember.

10 Q Do you have any understanding as to what  
11 use the money would be put to?

12 A Sure.

13 Q What would it be used for?

14 A Hiring get out the vote workers in targeted  
15 districts and communities.

16 Q Would any of the money have been used to,  
17 for example, be given to ministers of churches?

18 A Only if they were get out the vote  
19 coordinators.

20 Q They would --

21 A Not because they were ministers but because  
22 they were organizers.

1 Q What would they do in exchange for this  
2 money? Would they give the money to the people they  
3 would hire to run it?

4 A It differed according to the way they  
5 organized. Some hired crews of people.

6 Q What would other people do?

7 A What would other people do? Personally go  
8 and get people to the polls and drive them.

9 Q And be paid for it?

10 A Well, get expenses for it. I don't know  
11 that there was any wages involved in this.

12 Q What is your understanding as to the amount  
13 of money that was used to fund the get out the votes  
14 drive in the '90 campaign?

15 A I don't remember. I just have an  
16 impression.

17 Q What is your impression?

18 A It was a lot of money.

19 Q How much? 50,000, 30,000?

20 A Yes, those are good numbers.

21 MR. COHEN: Are those the numbers that you  
22 got the impression of from the newspaper?

---

1 BY MR. GIUFFRA:

2 Q Or have you spoken to Mr. Lindsey about it  
3 or someone else?

4 A I have never had a discussion with  
5 Mr. Lindsey about the amount of get out the vote or  
6 how they did it in the 1990 campaign.

7 Q You also thought it was curious or at least  
8 it was not a good way to handle the get out the vote  
9 money?

10 A No. The withdrawal.

11 Q What was the mistake that was made in your  
12 opinion or how could it have been done better?

13 A I didn't say could be done better. I  
14 thought it was curious.

15 Q What is your understanding as to how these  
16 withdrawals were handled?

17 A That separate checks were written on the  
18 same day at the same time or something like that. I  
19 don't know the facts of the situation at all.

20 Q How do you think it should have been  
21 handled?

22 A I can't project --

1 Q You testified --

2 A I said I found it curious. I can't sit  
3 here and tell you how they should have done it.

4 Q Based on how it had been done in past  
5 years --

6 A Based on my sole knowledge of it, I found  
7 it curious.

8 MR. COHEN: She hasn't described what she  
9 found curious.

10 BY MR. GIUFFRA:

11 Q You think it should have been done  
12 different days at different banks?

13 A No.

14 MR. COHEN: You don't mean that as a  
15 serious question, I suspect.

16 BY MR. GIUFFRA:

17 Q How could it be done in a different manner  
18 based on your experience in Arkansas political  
19 campaigning?

20 A I don't know about the 1990 campaign and  
21 how they could have done it in a different manner.

22 Q How was it done in prior years?

1 A I am not discussing prior years.

2 Q Do you know Neil Ainley?

3 A I may have met him.

4 Q Have you ever met him, ever had any  
5 conversation with Neil Ainley?

6 A No.

7 Q Do you know Herb Branscom?

8 A Yes.

9 Q Who is Herb Branscom?

10 A He was the chairman of the Arkansas  
11 Democratic party during the '82 campaign. He lives  
12 in Perryville and he practices law there and he was  
13 an official in the Perry County Bank. We appointed  
14 him when I was in the Governor's office to the  
15 University of Central Arkansas board of trustees, I  
16 believe. I hope that's right. It was one of the  
17 colleges. I think it was UCA.

18 After I left the Governor's office, he  
19 resigned that position and was appointed to the  
20 highway commission.

21 Q The highway commission?

22 A Correct.



1 Q Do you know Mr. Robert Hill?

2 A I have met Rob Hill, yes. He was a county  
3 coordinator for us in Perry County.

4 Q For what campaign?

5 A Several of them. I don't recall what  
6 years.

7 Q Have you discussed with Mr. Branscom  
8 anything having to do with the '90 campaign?

9 A None.

10 Q Mr. Hill?

11 A None.

12 Q You indicated your proposal for doing the  
13 get out the vote operation was rejected. Do you  
14 recall why it was rejected?

15 A I have no idea that it was rejected. I  
16 think what I said was it was not considered.

17 Q Why was it not considered?

18 A I do not know.

19 Q Have you ever discussed with Mr. Lindsey  
20 the campaign's failure to file cash transaction  
21 reports in connection with withdrawals made from the  
22 Perry County Bank during the '90 campaign?

1 MR. COHEN: We ought to at least get clear  
2 that the person who was -- Lindsey wouldn't be  
3 required to file a cash transaction or the. It was  
4 the failure of the bank to file it.

5 MR. GIUFFRA: I apologize. It is getting  
6 late. I'm getting tired.

7 BY MR. GIUFFRA:

8 Q Have you ever discussed with Mr. Lindsey  
9 the failure of the Perry County Bank to file required  
10 cash transaction reports in connection with the '90  
11 gubernatorial campaign?

12 A No.

13 Q Do you have any knowledge with regard to  
14 the failure of the Perry County Bank -- has anyone  
15 ever discussed with you the failure of the Clinton  
16 campaign -- strike that. I apologize.

17 Has anyone ever discussed with you the  
18 failure of the Perry County Bank to file cash  
19 transaction reports in connection with the 1990  
20 Clinton gubernatorial campaign?

21 A No.

22 Q You have no testimony to offer to the

1 Committee on that subject?

2 A No.

3 Q Do you want to talk to your lawyer?

4 A People in discussing newspaper stories  
5 would ask me what do you think this means, what  
6 happened, but they weren't connected with the  
7 campaign. It is just reaction to news stories.

8 Q You never discussed this question of  
9 whether the Perry County Bank should have filed CTRs  
10 with Mr. Clinton?

11 A No.

12 Q Mrs. Clinton?

13 A No.

14 Q Have you ever discussed with Mr. Lindsey  
15 his role in connection with withdrawal of the cash  
16 from the Perry County Bank in connection with the  
17 1990 gubernatorial campaign?

18 A No.

19 THE WITNESS: Now I do have to talk to you  
20 again.

21 MR. COHEN: Okay.

22 (Recess.)

1 BY MR. GIUFFRA:

2 Q Go ahead.

3 MR. COHEN: There is no question before.  
4 Let's pose one, not you --

5 THE WITNESS: Go to two questions.

6 MR. GIUFFRA: What is the question? You  
7 have apparently spoken to your lawyer. Let's get it  
8 out.

9 MR. COHEN: You previously asked a question  
10 as to whether she had spoken with anyone about the  
11 withdrawal of funds from the Perry County Bank, and  
12 if you didn't, I'm not quite sure you asked that  
13 question, but let's put that question presently and  
14 get an answer to it.

15 That's the question.

16 THE WITNESS: It is? You asked me if I had  
17 conversations about the use of cash in the '90  
18 campaign, I think, and I was beginning to remember  
19 people that I talked to. There are two conversations  
20 which have come to mind since you asked me that  
21 question. Do you want to know what they were?

22 BY MR. GIUFFRA:

1 Q Yes.

2 MR. COHEN: Please tell him the two  
3 conversations.

4 THE WITNESS: One night -- and no, I don't  
5 remember when, because I don't remember numbers -- I  
6 received a call from a woman in Arkansas who had been  
7 a volunteer or had been on the staff -- I don't know  
8 which -- of the '90 campaign saying that she wanted  
9 me to know that an FBI agent had been by to interview  
10 her about her having gone to the Bank of Perry County  
11 and picking up cash for the campaign and that she had  
12 signed a piece of paper for having received it and  
13 taken it back to the headquarters.

14 BY MR. GIUFFRA:

15 Q What is the person's name?

16 A I think her name is Glenda Cooper.

17 Q C-o-o-p-e-r?

18 A I believe that's her name.

19 Q What else did she say? Did she say who  
20 directed her to go to the Perry County Bank?

21 A I don't remember that she did.

22 Q Did Mr. Lindsey's name come up?

1 A Yes.

2 Q What did she say about Mr. Lindsey?

3 A She said that Mr. Lindsey had told her that  
4 if anybody ever said anything to her about that, that  
5 she was to let him know. So, she was calling me  
6 because she wanted me to tell him.

7 Q When did Mr. Lindsey say to her that she  
8 should --

9 A I didn't ask her that.

10 Q Was this something Mr. Lindsey said during  
11 the campaign?

12 A Yes, that was my impression.

13 Q Mr. Lindsey said to Ms. Cooper, the  
14 volunteer -- do you know where Ms. Cooper lives?

15 A In Little Rock. I think she lives there.

16 Q Did she ever work on any of the other  
17 gubernatorial campaigns?

18 A I don't remember.

19 Q Ms. Cooper said to you that --

20 A She was in the '92 campaign.

21 Q She worked on the '92 campaign with you?

22 A Not with me.

1 Q After the FBI agent came to her --  
2 Mr. Lindsey told her during the '90 campaign that if  
3 anyone ever came and asked her about her going over  
4 to the bank --

5 A Or gave her any trouble about it or  
6 something. It was just to let him know, the theory  
7 being this is my deal, not yours, and I will handle  
8 it.

9 Q Did you then talk to Mr. Lindsey about  
10 that?

11 A I did notify him.

12 Q What did you tell Mr. Lindsey?

13 A Just that.

14 Q What did Mr. Lindsey say to you?

15 A Nothing. He is not -- you don't really  
16 have two-way conversations with Mr. Lindsey.

17 Q When did you have this conversation with  
18 Ms. Cooper? Was it '93, '94?

19 A I don't know.

20 Q Was Clinton president?

21 A Yes. It was probably '94-95. My  
22 assumption was that the FBI investigators were

1 connected to a special counsel.

2 Q You think it was '94?

3 A I think so.

4 Q Do you recall how much money Ms. Cooper --

5 A I don't.

6 Q Would she know?

7 A I'm sure she did.

8 Q Did Ms. Cooper tell you anything more about  
9 the withdrawal of this cash?

10 A No. She only told me she picked it up and  
11 wanted me to tell Bruce.

12 Q Did she say approximately what date she  
13 picked up the cash?

14 A No.

15 Q Did she indicate she had been to the bank  
16 before to pick up cash?

17 A No.

18 Q Do you get the sense it was close to  
19 election day when she picked up the cash?

20 A Yes.

21 Q Did she say anything more to you during  
22 that conversation about the picking up of this cash



1 at the bank or anything Mr. Lindsey said to you?

2 A No. I think that is all I remember.

3 Q I just want to vacuum your knowledge about  
4 this matter.

5 MR. COHEN: What a strange word to hear  
6 coming from you. That can be used in an innocent  
7 way, I understand.

8 MR. GIUFFRA: Some people say.

9 BY MR. GIUFFRA:

10 Q Did you recall anything more about your  
11 conversation with Mr. Lindsey?

12 A No.

13 Q Have you spoken to anyone else about this  
14 conversation you had with Ms. Cooper and then the  
15 conversation with Mr. Lindsey, other than your  
16 lawyer?

17 A And I just now remembered it and told him.

18 MR. COHEN: Other than your lawyer.

19 BY MR. GIUFFRA:

20 Q Did you discuss this with the Independent  
21 Counsel?

22 MR. COHEN: None of your business what she

---

1 has discussed with the Independent Counsel. It would  
2 be in my judgment a violation of all sorts of  
3 things.

4 MR. GIUFFRA: We actually have asked  
5 witnesses whether they have in fact said this, this  
6 has been in public testimony, what they have told the  
7 Independent Counsel.

8 MR. COHEN: Before I would let her answer  
9 that question, I would have to consult with people as  
10 to the Independent Counsel.

11 BY MR. GIUFFRA:

12 Q Is there any documentation reflecting this  
13 communication with Ms. Cooper?

14 A No.

15 Q Why did your role change between the --

16 A Wait. I didn't finish.

17 Q Okay. Go ahead.

18 A I'm in trouble again, aren't I?

19 MR. COHEN: Not at all.

20 BY MR. GIUFFRA:

21 Q You have the Cooper conversation and the  
22 Lindsey conversation.

1 A Well, then there is a third conversation.  
2 I was having a conversation at some point, and I  
3 don't remember where or why or how or what the  
4 subject was, but the issue of the '90 campaign came  
5 up. I was talking to Bob Nash, and he told me that  
6 once Bruce had asked him to go to Perry County and  
7 pick up some get out the vote cash for him. That's  
8 all I know about that.

9 Q That's all he said. Did he say whether  
10 Mr. -- did Mr. Nash indicate he had been asked about  
11 this by the FBI?

12 A No.

13 Q Did you report what Mr. Nash said to  
14 Mr. Lindsey?

15 A No.

16 Q You had no other conversation with  
17 Mr. Lindsey about picking up cash from the Perry  
18 County Bank in connection with the '90 campaign?

19 A That's all I remember.

20 Q You can't remember any conversation with  
21 anyone else about picking up conversation from the  
22 Perry County Bank?

1 A Not so far. I'm doing my best.

2 MR. COHEN: She went from remembering no  
3 conversations to three conversations.

4 MR. COLE: It is skillful examination by  
5 Mr. Giuffra.

6 MR. GIUFFRA: Thanks. I appreciate that.

7 MR. COHEN: I think the record was it was  
8 Ms. Wright who remembered the conversations, took a  
9 break and then disgorged them.

10 BY MR. GIUFFRA:

11 Q Why did your role change between the '88  
12 campaign and the '90 campaign? Or was it the '86  
13 campaign?

14 A Why did my role change?

15 Q Because you became the state party  
16 chairman? Why weren't you as actively involved in  
17 the campaign of '90 as opposed to prior years?

18 A I didn't manage the '90 campaign, and I had  
19 managed the prior years.

20 Q Again, you have no -- in terms of the way  
21 that those withdrawals were done for the get out the  
22 vote drives, you don't have any sense as to how it

1 could have been done differently?

2 A I don't know how they did it.

3 Q Did Mr. Nash indicate to you what use was  
4 made of the money?

5 A No.

6 Q Do you have any idea as to what use was  
7 made of the money?

8 A No. I didn't have any further discussion  
9 with him.

10 Q Last question. Why did your role -- why  
11 were you no longer the Governor's campaign manager?

12 A Well, I left the Governor's staff toward  
13 the end of 1989, though I didn't technically go off  
14 the payroll until January of '90. So I was no longer  
15 working for him, and I didn't want to run the  
16 campaign in '90.

17 Q Who became the campaign manager?

18 A Gloria Cabe.

19 Q C-a-p-e?

20 A C-a-b-e.

21 Q Have you ever spoken to Ms. Cabe about the  
22 withdrawal of cash from the Perry County Bank?

1 A No.

2 MR. GIUFFRA: I think now is a good spot to  
3 stop. It is quarter to 7:00. We very much  
4 appreciate your cooperation and indulgence. We have  
5 to try to find another day in order to do this  
6 promptly.

7 MR. COHEN: We will do our best.

8 (Whereupon, at 6:45 p.m., the deposition  
9 was adjourned.)

10 -----  
11  
12 BETSEY WRIGHT  
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

325

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey  
Notary Public in and for the  
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996



DEPONENT BETSEY WRIGHT (Jan. 26, 1996)

## ERRATA

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
<u>17</u>	<u>6</u>	<u>"Linda Dibson"</u>	<u>to "Lynda Dixon"</u>	
<u>55</u>	<u>6</u>	<u>"uninsured"</u>	<u>to "uninsured institutions"</u>	
<u>61</u>	<u>3</u>	<u>"Ms. Clinton"</u>	<u>to "Mrs. Clinton"</u>	
<u>82</u>	<u>9</u>	<u>"is now"</u>	<u>to "was"</u>	
<u>115</u>	<u>14</u>	<u>"primary"</u>	<u>to "primarily"</u>	
<u>158</u>	<u>8-9</u>	<u>"high visibility"</u>	<u>to "highly visible"</u>	
<u>184</u>	<u>15</u>	<u>"not in"</u>	<u>to "nothing"</u>	
<u>199</u>	<u>16</u>	<u>"tell John"</u>	<u>to "tell on John"</u>	
<u>202</u>	<u>9</u>	<u>"Bird Eye"</u>	<u>to "Birdeye"</u>	
<u>222</u>	<u>21-22</u>	<u>"commissioners"</u>	<u>to "commissioner"</u>	
<u>255</u>	<u>4</u>	<u>"Marlon"</u>	<u>to "Marlin"</u>	
<u>275</u>	<u>9,10,11</u>	<u>"Gatty"</u>	<u>to "Gaddy"</u>	
<u>287</u>	<u>18</u>	<u>"whether the"</u>	<u>to "whether"</u>	
<u>288</u>	<u>21</u>	<u>"for"</u>	<u>to "from"</u>	
<u>293</u>	<u>14-15</u>	<u>"approved into"</u>	<u>to "approved"</u>	

Exhibit 1 (Ms. Wright's Resume) delete her home address, work address, and social security number

ONIE ELIZABETH (BETSEY) WRIGHT

WORK HISTORY

Principal, Senior Director, The Wexler Group, a government relations consulting group (March 1993-present)

Transition Staff (November 1992-January 1993)

Deputy Chair, Clinton-Gore Campaign (March-November 1992)

Fellow, Institute of Politics, Kennedy School of Government, Harvard University (February-March 1992)

Chair and Executive Director, Democratic Party of Arkansas (June 1990-September 1991)

Chief of Staff or Campaign Manager for Governor Bill Clinton, Arkansas (December 1980-January 1990)

Director of Political Action, American Federation of State, County and Municipal Employees, Washington, D.C. (March 1979-January 1980)

Executive Director, National Women's Education Fund, Washington, D.C. (November 1973-February 1979)

Consultant and Coordinator, Series of positions in Texas Politics, Government and Public Interest Efforts (1958-1973)

PRESENT BOARD MEMBERSHIPS

Director, US Bioscience, Inc.

Director, American Council of Young Political Leaders

Associate Member, McDonald Observatory and Astronomy Board of Visitors

Member, Governing Board of University of Maryland Center for Political Leadership and Participation

Honorary Board Member, Green Door



BACKGROUND DATA

Home Address:

Work Address:

Date and Place  
of Birth:

Education:      University of Texas at Austin  
                    B.A. 1967





**DEPOSITION OF AMY STEWART  
IN RE: S. RES. 120**

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**MONDAY, JANUARY 29, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of AMY STEWART, called for examination pursuant to notice of deposition, at 11:27 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.  
Majority Associate Special Counsel  
NEAL E. KRAVITZ, Esq.  
Minority Principal Deputy Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

ALDEN L. ATKINS, Esq.  
Vinson & Elkins  
The Willard Office Building  
1455 Pennsylvania Avenue, NW  
Washington, DC 20004  
On behalf of the Deponent.

ALSO PRESENT:     DAVID BOSSIE

## CONTENTS

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Amy Stewart	
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## 1 PROCEEDINGS

2 MR. BARTOLOMUCCI: On the record.

3 Ms. Stewart, this is a deposition being  
4 conducted pursuant to Senate Resolution 120 which  
5 establishes a special committee administered by the  
6 Banking Committee to conduct an investigation of  
7 Whitewater Development Corporation and certain other  
8 related matters including matters pertaining to the  
9 Rose Law Firm. This deposition is being conducted in  
10 advance of public hearings, at which you may or may  
11 not be called to testify.

12 If at any time you don't understand the  
13 question I am asking, please let me know and I will  
14 rephrase it, and tell me if you need a break at any  
15 point. Our court reporter is going to provide a  
16 record of questions and answers. This deposition  
17 will be treated as what we call committee  
18 confidential until the commencement of hearings.

19 Prior to the hearings, you will receive a  
20 letter from the committee telling you that you may  
21 come to the Senate to review the transcript of your  
22 deposition and make note of any corrections for

1 transcription on an errata sheet.

2 If you are to be called to testify at a  
3 public hearing, you will be permitted to have a copy  
4 of your deposition transcript four days in advance.  
5 As you know, you may be represented by counsel, as  
6 you are today. I will also tell you that objections  
7 to the form of the questions will be noted for the  
8 record. Counsel may also object on grounds of  
9 privilege or of -- that a question goes beyond the  
10 scope of the resolution. Any objections may be ruled  
11 upon by the committee chairman.

12 I am going ask the court reporter to swear  
13 you in. Before we went on the record we had a  
14 discussion about her ability to do so, given that  
15 this is a phone deposition, but before we went on the  
16 record, all parties agreed that Ms. Stewart would  
17 consent to this procedure and we would defer any  
18 questions about the binding effect of swearing in a  
19 witness in this manner.

20 MR. ATKINS: That is correct. This is  
21 Alden Atkins.

22 MR. BARTOLOMUCCI: You want to go ahead and

1 swear in the witness.

2 Whereupon,

3 AMY STEWART

4 was called as a witness and testified as follows:

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MR. ATKINS: On the record. This is Alden Atkins. I would like to make clear for the record what might not be reflected on the printed page, which is that this deposition is being conducted by telephone. Ms. Stewart is in her offices in Little Rock, Arkansas and I am in my offices here in Washington, D.C. and you are in the Senate Banking Committee offices.

MR. BARTOLOMUCCI: All of that is correct.

EXAMINATION

BY MR. BARTOLOMUCCI:

Q Ms. Stewart, can you give us a brief summary of your educational background.

A Phillips Exeter Academy, 1977; Wellesley College, BA, 1981; New York University, JD, 1986.

Q When did you come to the Rose Law Firm?



1 A September 1988.

2 Q And you are currently a partner at the  
3 firm?

4 A Yes.

5 Q When were you made partner?

6 A I think October 1992.

7 Q Can you tell me what you did in that one-  
8 or two-year period between when you took your JD and  
9 when you came to the Rose Law Firm?

10 A Yes, I clerked for Judge Eisele, Chief  
11 Judge for the U.S. District Court, Eastern District  
12 of Arkansas.

13 Q When did you first meet Hillary Rodham  
14 Clinton?

15 A I guess sometime in late 1986, probably.  
16 After I came to Arkansas, maybe 1987.

17 (Discussion off the record.)

18 MR. BARTOLOMUCCI: Back on the record.

19 BY MR. BARTOLOMUCCI:

20 Q Ms. Stewart, can you tell me, as best you  
21 can, all of the times during which you have been in  
22 the White House?

1 A I assume you mean during this  
2 administration.

3 Q Yes.

4 A I think the first time was May 1993. No,  
5 no, that is not right. I think I must have been  
6 there -- would it be true there was anything during  
7 the Inauguration? I don't know. I don't remember.  
8 I was in Washington during the Inauguration. I don't  
9 remember if we had anything in the White House  
10 there. Or if I didn't get there for the first time  
11 until May of 1993, and then I think I came up for a  
12 visit, the Christmas party in December of 1993. Then  
13 I don't think I was there again until maybe sometime  
14 this spring I was in Washington on business and I  
15 stopped in to say hello just for a few minutes.

16 Q "This spring" meaning of 1995?

17 A That's all I can think of.

18 Q In response to my last question when you  
19 said you visited in the spring, was that the spring  
20 of 1995?

21 A Yes.

22 Q So, your first visit to the White House was

1 during the Inauguration, so that would have been  
2 during the --

3 MR. KRAVITZ: I think she said she doesn't  
4 remember, she doesn't know if she was there during  
5 the Inauguration.

6 THE WITNESS: Right, I was up for the  
7 Inauguration festivities in Washington. I don't  
8 remember if there would have been any reason we were  
9 in the White House.

10 BY MR. BARTOLOMUCCI:

11 Q You may have been, but you don't remember?

12 A If there was some sort of party or event  
13 then I probably was there. But I don't remember.

14 Q In May of 1993, what was the occasion for  
15 you being in the White House?

16 A I had come up to kind of, I guess, review  
17 the health care proposal that was -- they were  
18 nearing a final draft and I was giving a fresh and  
19 objective eye over the antitrust issues, an overview  
20 or review to help.

21 Q Who asked you to come to Washington to  
22 perform that task?

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1 A Mrs. Clinton invited me.

2 Q How long were you in Washington to perform  
3 that task?

4 A About three weeks. I was probably somewhat  
5 slower than normal. I was pregnant with twins at the  
6 time. The head didn't work very clearly.

7 Q Did you take a leave of absence from the  
8 law firm or anything like that during that period?

9 A Vacation, no, not -- we don't have a formal  
10 leave of absence.

11 Q You used vacation time while you were  
12 working on the health care task force?

13 A We don't have anything formal like that.  
14 You know, as a partner, I am not limited to one or  
15 two or three weeks of vacation time. I used it as  
16 kind of a vacation. We don't have any formal  
17 procedure I know of that would call it something  
18 special, if it was called a vacation or sick or  
19 anything else.

20 Q Okay. Were you doing Rose Law Firm work at  
21 the same time as you were working on reviewing health  
22 care antitrust issues?

1 A No.  
2 Q Was that a no?  
3 A It was no. Yes.  
4 Q Other than Mrs. Clinton, who else was  
5 involved with bringing you to Washington to work on  
6 the health care task force?  
7 A Nobody, to my knowledge.  
8 Q Who did you work with once you were here in  
9 May of 1993?  
10 A I don't know that you would -- I didn't  
11 work closely or specifically with anyone, but it was  
12 Ira Magaziner's group. He headed up whatever the  
13 health care task force was, and so when I needed  
14 information or when -- if I had questions I would ask  
15 those people, the people on his staff, I guess.  
16 Q Who would you say you reported to during  
17 that period?  
18 A I guess Ira.  
19 Q And did you produce any work product or the  
20 like?  
21 A No. I was -- I read through the draft of  
22 the plan as it was at that stage, and as I recall, I

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1 talked to Ira about my thoughts on it that here are a  
2 couple of places that I have concerns and here are  
3 places I think you need to develop a few more  
4 standards or whatever. It was pretty informal, very  
5 informal, what I did.  
6 Q And this occupied you for three weeks?  
7 A By and large, yes. Like I said, I wasn't  
8 moving at top speed.  
9 Q Understood.  
10 Where physically were you working at that  
11 time in May of 1993?  
12 A Wherever I could find a chair. Somewhere  
13 between the -- sometimes I sat in the Old Executive  
14 Office Building, wherever there was kind of an empty  
15 place. It was pretty crowded and pretty hectic  
16 around there. Sometimes I sat in a room at the White  
17 House. Sometimes I sat in a chair at Hillary's outer  
18 office. Really and truly, wherever there was a  
19 chair. I didn't stand at all.  
20 Q Did you ever work out of Vince Foster's  
21 office?  
22 A I'm sorry, what?

1 Q Did you ever work out of Vincent Foster's  
2 office?

3 A No. I didn't have any assigned place. I  
4 mean, there was no -- I wasn't told here is your  
5 desk, go at it.

6 Q Did you ever do some of your work within  
7 Vincent Foster's office?

8 A Yes, sometimes I sat in there, and -- if he  
9 wasn't busy or something. I would sometimes sit on  
10 his couch. Not so much there. Most of it really, as  
11 I recall, was more up in the -- you know, in the room  
12 where I was staying.

13 Q Where were you staying?

14 A Most of what I was doing was reading and  
15 thinking and making sort of notes to myself for  
16 conversations with people on the plan as I was  
17 reading this big, fat, thick plan. And there were  
18 several drafts of it and there were other side  
19 issues. And if I wanted more information on a  
20 particular subject within the plan that I need to  
21 read whatever the background was on that. I mean, it  
22 wasn't -- I don't know what the normal procedure for

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1 things are up there, but this was very informal.

2 Q And you were analyzing antitrust issues; is  
3 that right?

4 A Right. I was looking at the plan primarily  
5 for -- from an antitrust perspective, were there  
6 issues that -- we shouldn't do this or it will cause  
7 a problem or how were some of the procedures to work  
8 with -- without causing antitrust problems.

9 Q Is antitrust the focus of your private  
10 practice?

11 A Yes. Primarily, I do general, large  
12 business commercial defense, but the bulk of that is  
13 antitrust, yes.

14 Q During this period in May of 1993, where  
15 did you stay overnight?

16 A On the third floor of the White House.

17 Q In the personal residence or the private  
18 residence at the White House?

19 A Yes. The third floor is where guests and  
20 family friends stay.

21 Q Did you stay in any particular named room?

22 A No. There's just a bunch of guest bedrooms



1 up there. To my knowledge, I don't know if any of  
2 them were named. Not like the Lincoln bedroom or the  
3 Queen bedroom, whatever that was.

4 Q Now, in connection with the work you were  
5 performing for the health care task force, did your  
6 work cause you to have any involvement with Vincent  
7 Foster?

8 A You mean was he looking at any of the  
9 antitrust issues?

10 Q That's right.

11 A No, not to my knowledge.

12 Q What about Webster Hubbell?

13 A Again, well, no. He wasn't. I think that  
14 at some point I asked to talk to Anne Bingaman, who  
15 is head of the antitrust section of the Justice  
16 Department. And I think I asked Web if that was  
17 appropriate or if that was okay if I met with her,  
18 and would he set it up. And I guess he must have or  
19 he must have told me to go down there. But to my  
20 knowledge, he wasn't doing anything on the health  
21 care plan, Web wasn't.

22 Q So other than arranging that meeting with

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1 Anne Bingaman, you had no involvement with Webster  
2 Hubbell related to the health care task force?

3 A No, not that I can think of.

4 Q Did you have other contacts with  
5 Mr. Hubbell?

6 A Of course, he was a good friend to us all.  
7 I saw quite a bit of him, I guess.

8 Q During the time that you were in Washington  
9 in May of 1993, did you have any discussions with  
10 Mr. Hubbell about his billing practices at the Rose  
11 firm?

12 A Not at all.

13 Q Did you discuss Mr. Hubbell's billing  
14 practices with anyone while you were in Washington in  
15 May of 1993?

16 A No. Nobody from the administration. And  
17 in fact, I don't think I talked with anybody at all  
18 about that that early. I don't think I was aware of  
19 it that early.

20 Q When do you think you became aware that  
21 there was an issue or problem concerning  
22 Mr. Hubbell's billing practices?

1 A I didn't really become conscious of it,  
2 until I think -- November? I had the twins in  
3 October and I didn't come back to the firm until  
4 December. And I think that that's when I really  
5 became aware that there were serious questions. I  
6 think there was a partners' meeting sometime in  
7 December where Ron kind of laid things out.

8 Q That would be Ron Clark?

9 MR. ATKINS: So the record is clear, Amy,  
10 did you take time off prior to the birth of the  
11 twins?

12 THE WITNESS: Yes. Yes, we found out -- I  
13 didn't actually know we were having the twins until  
14 the day after I got back from Washington, when  
15 things -- things had been peculiar while I was up in  
16 Washington. I had three before the twins and so I  
17 was used to being pregnant and this seemed a little  
18 different.

19 And so I found out on roughly the first of  
20 June that I was having twins, and then right after  
21 that we had some tests that indicated there might be  
22 a pretty serious problem with one or both of them.

1 And throughout the summer and fall I was not at the  
2 firm very much at all. And then by oh, -- actually  
3 by probably middle or late August I was mostly on bed  
4 rest. So I was very little at the firm until the  
5 first of December, but then I don't think I was back  
6 full-time.

7 BY MR. BARTOLOMUCCI:

8 Q Again, during May of 1993, did you have any  
9 contact with William Kennedy?

10 A Again, social, yes.

11 Q But no involvement related to the health  
12 care task force?

13 A Oh, I don't know that he was -- to my  
14 knowledge, he didn't do anything on health care  
15 either.

16 Q During May of 1993, did you have any  
17 contact with any of the administration officials in  
18 Washington? And by that I mean Webster Hubbell,  
19 William Kennedy, Vincent Foster, Hillary Clinton.  
20 Did you have any contact with them regarding Rose Law  
21 Firm matters?

22 A No. If I understand you right, no, not at

1 all. We didn't talk about any ongoing firm business  
2 or firm issues at all. Web was preparing for his  
3 confirmation, as I recall, during that month. And so  
4 I -- you know, if they asked a question about things  
5 in the past at the firm I would come up with an  
6 answer, but there was no discussion of anything  
7 current at the firm. Those people had all resigned  
8 from the partnership.

9 Q Ms. Stewart, the committee has a document  
10 that was produced to us by the RTC, there is a fax  
11 transmittal page which is dated May 17, 1993. And  
12 the fax was, according to the document, sent by  
13 Richard Donovan of the Rose firm and it is addressed  
14 to Vincent Foster, attention, Amy Stewart.

15 Do you remember receiving such a fax while  
16 you were in Washington?

17 A Not specifically, no.

18 Q Let me tell you a little bit more about  
19 it.

20 MR. ATKINS: Let me interrupt a little bit  
21 here. Alice Fisher had identified that document for  
22 us prior to the deposition and I believe that

1 Ms. Stewart has a copy of it available in front of  
2 her.

3 THE WITNESS: I do.

4 BY MR. BARTOLOMUCCI:

5 Q So you know the fax and transmittal I am  
6 talking about?

7 A Yes, I do.

8 Q Do you remember receiving it? Ms. Stewart,  
9 do you remember receiving the fax?

10 A No. I mean, I have it in front of me and I  
11 have seen it. Alden showed it to me last week, but I  
12 don't remember specifically receiving it, no. I can  
13 tell you what it's about, though, because I recall  
14 the issue.

15 Q Do you know why this would have been sent  
16 to you?

17 A Yes. When Web was preparing for his  
18 confirmation hearings, that was the time -- I don't  
19 know if you recall the country club issue down here  
20 where there was a lot of controversy or hubbub about  
21 the Arkansas people who had been members of the  
22 Little Rock Country Club and questions about



1 race-related membership issues. And somebody, I  
2 don't know, I don't remember who, was somewhat  
3 concerned that he might be concerned on the firm's  
4 hiring practices and what our record was on hiring  
5 minorities.

6 And so I think I called back to the firm,  
7 if I remember right, and I guess talked to Rick  
8 Donovan and I think I remember talking to him, and  
9 said what is our record like. I had only been a  
10 partner for a couple of months at that point, I  
11 hadn't been privy to any discussions or concerns  
12 before that.

13 So I called back and said what's our record  
14 like and does anybody have any records on the firm's  
15 hiring practices. Although I don't remember it  
16 specifically, you can tell from looking at the memo  
17 where -- looking at the cover page where Rick said,  
18 Amy, look at paragraph 6 of the RTC letter, paragraph  
19 6, equal employment opportunities and participation,  
20 and look at paragraph 4 of Web's response which again  
21 refers to the Rose Law Firm as an equal opportunity  
22 employer and complies fully with all government

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1 regulations regarding non-discriminatory employment  
2 practices.

3 This was by way of his response to my  
4 question about does the firm have any records on  
5 hiring practices if that gets to be a question at the  
6 confirmation hearings.

7 Q So during the time that you were in  
8 Washington in May of 1993, you were working not only  
9 on the health care task force but also assisting  
10 Mr. Hubbell in preparation for his confirmation  
11 hearings?

12 A Yes, I remember a Saturday meeting that  
13 they -- that whoever was preparing him -- that Web  
14 invited me to where he was being prepared by, I  
15 guess, whatever team does this sort of thing. And  
16 they -- he invited me to come in case there were  
17 anything that I could add about Arkansas, can clarify  
18 or if I could think of for him. This is the hiring  
19 practices issue, in fact, and the country club, as  
20 far as I remember.

21 Q Do you remember what else --

22 A Anyway, I didn't come up to Washington to



1 prepare Web for his confirmation. I mean, I didn't  
2 come up from Arkansas to Washington to prepare Web  
3 for his confirmation. Once I was there, I came to  
4 that session.

5 Q He asked you to assist once you were here?

6 A You could call it assist. He invited me to  
7 come to that preparation session. He didn't call it  
8 assisting. I don't even know what assisting could  
9 be. I couldn't offer much more than what I did,  
10 which was finding out about this hiring practice.  
11 And I recall saying to several people on the -- or  
12 saying at that session about the country club issue,  
13 although I understand the whole southern side of how  
14 these country clubs work and things like that, but  
15 all focused on the country club and the hiring.

16 Q Can you tell me who was at this Saturday  
17 meeting?

18 A Oh, not by name. I could describe a couple  
19 of the people to you.

20 I think maybe there was a small fellow,  
21 kind of slight, with silver hair who had for a while  
22 been -- he was a merchant banker or something like

1 that, I am not even sure what a merchant banker is,  
2 but I remember he was the only one I had ever met. A  
3 woman named Nancy may have been there.

4 Q Could Nancy have been Nancy McFadden?

5 A I don't know. She was thin, maybe five,  
6 four or five, five, light brown hair, not quite to  
7 her shoulders, kind of straight.

8 Q So -- and it was just the four of you?

9 A No, there were other people, but I don't  
10 know who they were. I mean, I am sure somebody  
11 introduced me at the time, but I don't remember who  
12 they were.

13 Q Was the only issue discussed at the meeting  
14 this one concerning the country club?

15 A No. I'm sure that that wasn't the limit,  
16 but I -- the other stuff was meaningless to me.  
17 Whatever it was they were talking about, I didn't  
18 know what it was. I mean, I didn't understand it, I  
19 don't remember it.

20 Q So after the meeting, you think you placed  
21 a call or several calls back to the Rose Law Firm to  
22 see what you could find out about the firm's hiring

1 practices?

2 A Well, I think I called Rick Donovan. I  
3 don't know that I did it more than once.

4 Q Why would you have called Rick Donovan?

5 A Because he was the person left, I guess,  
6 that I thought must have known something about it.  
7 Because there weren't in the office three of the  
8 litigation partners. There weren't a lot of us to  
9 begin with.

10 Q Again, just so the record is clear, in  
11 connection with preparing Web Hubbell for his  
12 confirmation hearings, you were party to no  
13 conversations about his billing practices at the Rose  
14 Firm?

15 A No. I wasn't on a firm assignment to go  
16 prepare Web. Moreover, as far as I know, there  
17 weren't questions about Web's billing questions at  
18 that point. If there were, I wasn't privy to them.  
19 I wasn't involved in firm management, I wasn't on the  
20 executive committee. I was a new partner who hadn't  
21 been around a lot yet. So if that early there were  
22 any questions, I didn't know about them.

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1 Q Were you involved with the shipment of  
2 Hillary Clinton's files from the Rose law firm to  
3 Washington?

4 A Peripherally. Not the initial stuff. When  
5 she left, whatever -- whatever she brought to  
6 Washington, if anything, I didn't have anything to do  
7 with. There was a time in '92 -- I mean '93, they  
8 got elected in November of 1992 so they came in 1993,  
9 I think there was a letter in 1993 from Alston.

10 Q Say that again.

11 A There was a letter to me from Millie  
12 Alston, who was Hillary's secretary at the firm and  
13 then went up to be -- some office in Washington,  
14 correspondent, I think it is, and going down the list  
15 of her files and telling me what to do with the  
16 standard firm vernacular, which is destroy, save,  
17 whatever, the secretaries have. There's some  
18 standard systems they use or fairly standardized  
19 systems they use for storage and retention of files.

20 And I don't know the details of it, but at  
21 any rate she was -- she sent a letter saying what to  
22 do with some of these files, and I didn't actually

1 handle it myself. I think my secretary did  
2 whatever -- we actually got the letter and was  
3 supposed to do whatever it was with the files, but I  
4 am not sure it got done. Those were the files I  
5 think we ended up having at the firm and they didn't  
6 get handled because I was out of the office having  
7 the baby.

8 Q Just to back up and go over this in more  
9 detail, tell me again who Millie Alston is.

10 A Millie Alston was Hillary's secretary at  
11 the firm.

12 Q And at the time you received this letter,  
13 where was she?

14 A I think she was in the correspondence  
15 office at the White House.

16 Q So Ms. Alston came to Washington with  
17 Mrs. Clinton?

18 A Right.

19 Q Can you pinpoint what time you received  
20 this letter from Ms. Alston?

21 A No, but I can only guess it was while I was  
22 out having the baby. I mean, I can only guess it

1 came sometime from June of '93 until December when I  
2 got back, because my memory is that it didn't get  
3 done because I wasn't here.

4 Q Why would that letter have been sent to  
5 your attention?

6 A Because there were files, client files and  
7 Hillary's research files and whatever was left that  
8 didn't get sent to Washington, and somebody had said  
9 to me early in the year, I guess, in January or  
10 February or something, will you hold these files  
11 until somebody figures out what do with them. So I  
12 was ostensibly the custodian because nobody else was  
13 around to do it.

14 Q So you became the custodian of  
15 Mrs. Clinton's Rose files or at least those she  
16 didn't take with her?

17 A Or disburse. Now, this was a very small  
18 percentage of her total files, client files. Active  
19 clients got disbursed to whatever attorneys were  
20 appropriate. I don't know what all happened to files  
21 outside of what she left here, but these were things  
22 that were her charitable work and I never went



1 through all the files. I don't know actually what  
2 was in there. But, yes, what was left ostensibly got  
3 left with me. Although again, it was not like they  
4 were piled in my office or anything like that.

5 Q Do you remember who asked you to become a  
6 custodian of these files?

7 A No. You know, I don't know.

8 Q Could it have been Mrs. Clinton herself?

9 A Oh, no. I don't think I saw her after the  
10 election back here maybe but once.

11 Q Was there an index to these files?

12 A I think so. I think that a file clerk may  
13 have -- yes, made an index. I think so.

14 Q Does that index still exist?

15 A I don't know. I don't have it.

16 Q So --

17 MR. ATKINS: I think I can short-cut this  
18 and tell you those files have been reviewed for  
19 material responsive to all the various investigations  
20 and that which is responsive has been produced,  
21 including the -- well, fact of the matter is there is  
22 nothing in there relating to Madison Guaranty.

1 MR. BARTOLOMUCCI: Thank you for that  
2 input.

3 BY MR. BARTOLOMUCCI:

4 Q When you received the letter eventually  
5 from Ms. Alston, it instructed that some of the files  
6 be destroyed; is that correct?

7 A Well, it had notations along a list of  
8 files, you know, on the left-hand side or the  
9 right -- somewhere in the margin, it said what to do  
10 with them. I don't actually remember what any of the  
11 notations were. But they were the kinds of things  
12 that our secretaries normally have as notations.

13 As far as I know, none of it happened,  
14 though.

15 It seems to me within a few days, and Alden  
16 will probably know better than I or Ron, but within a  
17 few days of the time that I realized I had this  
18 letter, we got some sort of notice that we were  
19 supposed to preserve all files. Nothing, again, did  
20 happen with those files. I turned them over to  
21 either Ron or Alden or whatever lawyers were handling  
22 it and they started reviewing. But I don't remember



1 what annotations there were on the sides. I just  
2 recall there was a kind of initials the secretaries  
3 used to do whatever the standard procedures are with  
4 our old files.

5 Q Did there come a time when you were  
6 involved with having some files sent to Mrs. Clinton  
7 at the White House?

8 A Those files that I remember having -- that  
9 were on that list, and I should be clear about this.  
10 I am not sure everything that was on that list was a  
11 file that had gotten left here. I don't remember  
12 where this list came from. All I know -- I don't  
13 know how they compiled it, but -- and I don't  
14 remember whether there was an annotation on every  
15 file.

16 But at any rate, whatever files we had here  
17 still, I just gave I think to Alden, actually.

18 Q So you were not involved in having files  
19 sent to Mrs. Clinton? Can you give your answer  
20 again, please?

21 A Not that I can recall.

22 Q During his deposition, Ron Clark indicated

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1 that documents had been shipped to Mrs. Clinton from  
2 the Rose firm. Do you have any knowledge of what  
3 that might be?

4 A I don't remember having shipped any to her  
5 at all. And if I had, it wouldn't have been directly  
6 to her because my memory is this letter came from  
7 Millie, from Millie. What I remember is I didn't  
8 deal with that letter because by the time I focused  
9 on it we were told to hold everything, preserve it.  
10 I don't know whether it was because we had a subpoena  
11 or something, but I don't recall ever sending  
12 documents -- those files out to her.

13 Q Or taking any action with respect to those  
14 files, other than turning them over to --

15 A Right, that's my memory.

16 Q And --

17 A I am saying that I think I remember turning  
18 them over to Alden. I may have given them to Ron,  
19 but actually I didn't -- they were in a filing  
20 cabinet, I said here they all are. I didn't  
21 physically carry down all the files.

22 MR. ATKINS: Let me state for the record so

1 this is clear that those files have been kept in a  
2 room under lock and key for at least two years.

3 MR. BARTOLOMUCCI: You are referring here  
4 to Mrs. Clinton's files?

5 MR. ATKINS: Ones that she left behind at  
6 the Rose Law Firm, that's correct.

7 MR. BARTOLOMUCCI: These are the same files  
8 that are indexed or referenced on the letter from  
9 Ms. Alston?

10 MR. ATKINS: Whatever was left behind has  
11 been left in a room and has been carefully preserved  
12 under lock and key and have been reviewed for the  
13 purposes of responding to all the various requests  
14 for documents that we have received.

15 MR. BARTOLOMUCCI: And I take it that  
16 billing records related to Madison Guaranty are not a  
17 part of these files?

18 MR. ATKINS: No. And indeed, there are no  
19 client files in there to the best of my  
20 recollection.

21 BY MR. BARTOLOMUCCI:

22 Q Ms. Stewart, during the time that you were

1 in White House, do you remember any discussion about  
2 Madison Guaranty?

3 A Not at all.

4 Q What about any discussion about Whitewater  
5 Development Corporation?

6 A No. None that I would have been privy to.  
7 I am not aware of any at all.

8 Q Did you have any discussions about or --  
9 about Rose Law Firm billing records while you were in  
10 the White House in May of 1993?

11 A I can't imagine why I would have.

12 Q So you have no memory of discussing billing  
13 records?

14 (Pause.)

15 Ms. Stewart, did you hear the question?

16 A I said no.

17 Q I don't think we heard your response on  
18 this end. Just to close the loop on our discussion  
19 of your acting as custodian of Mrs. Clinton's files,  
20 to the best of your knowledge, none of these files  
21 were shredded or otherwise destroyed?

22 A Oh, no. No.

1 Q While you were in the White House in May of  
2 1993, did you have any contact with Jim or Diane  
3 Blair?

4 A When I first got to the White House,  
5 Mrs. Blair may have been there at the same time up on  
6 the third floor, and I don't remember for how long.  
7 I don't think she was there during the whole three  
8 weeks I was there. I think it was when I first  
9 arrived. That's when I first saw her. I don't know  
10 if I ever saw her husband there. I just don't  
11 remember. I do know the Blairs and I can't place  
12 whether and for how long I saw Diane up there. I  
13 know I saw her up there, but I can't place for how  
14 long. And I don't remember --

15 Q Do you know why Mrs. Blair was at the White  
16 House during that time?

17 A Had some sort of fellowship, I think, with  
18 the Brookings Institute, private, nonprofit think  
19 tank kind of place, on a sabbatical from the  
20 University of Arkansas, Fayetteville. I think she  
21 was staying up there overnight while she had this  
22 Brookings -- I think she came back and forth from

1 Arkansas to the Brookings Institute.

2 Q So you think she may only have been there  
3 one night?

4 A Oh, no. I just don't know how many nights  
5 she was there.

6 Q Would you say that you saw her frequently  
7 throughout that period?

8 A No, I don't think so. I'm thinking she was  
9 there when I got there. Wasn't there for very long  
10 after that. There were -- I really don't remember,  
11 but no, I don't think she was there for very long  
12 while I was there.

13 Q But she was there for some part of the  
14 time?

15 A I think the very early part.

16 Q And Jim Blair, you don't remember being  
17 there at all?

18 (Pause.)

19 Did you answer that question?

20 A I said no, I just don't remember whether he  
21 was there.

22 MR. BARTOLOMUCCI: Again, we didn't get

1 that on this end.

2 BY MR. BARTOLOMUCCI:

3 Q Do you remember seeing Harry Thomasson in  
4 the White House while you were there?

5 MR. KRAVITZ: Can I ask what the relevance  
6 of that question is?

7 MR. BARTOLOMUCCI: We are probing documents  
8 in Vince Foster's office and what happened to them,  
9 including documents that may relate to the travel  
10 office matter.

11 MR. KRAVITZ: If you want to try to focus  
12 that question a little bit better, I won't object to  
13 it but as it stands, I will object to that question.

14 MR. BARTOLOMUCCI: I am asking just the  
15 broader question in the hopes that it would -- if the  
16 answer is no, then that takes care of the matter and  
17 there wouldn't be need for any more.

18 MR. KRAVITZ: Why don't you answer that  
19 question yes or no.

20 BY MR. BARTOLOMUCCI:

21 Q Again, the question was, during the time  
22 that you were in the White House in May of 1993, did

---

1 you see Harry Thomasson?

2 A I once met Harry, if Harry Thomasson is who  
3 I think he is, burly guy with black and gray beard,  
4 then I saw him at dinner once. He was at a -- just a  
5 casual dinner one night.

6 Q This was a White House dinner party, is  
7 that what you are describing?

8 A No, the family has dinner either in the  
9 kitchen or up on the third floor in the sun room when  
10 it is informal, just family. And I recall, I think,  
11 him having dinner one night, although I don't recall  
12 whether the President was there and I am not even  
13 sure whether Mrs. Clinton was there. I don't  
14 actually remember who -- whether they were there. It  
15 may have been.

16 Q You were also at this dinner?

17 A Yes. You know, family and friends who were  
18 staying on the third floor, by and large it seemed at  
19 least then to be the practice that if there was just  
20 family, then you were eating with the family.

21 Q Who else do you remember being at this  
22 dinner?



1 MR. KRAVITZ: I object to that question. I  
2 mean, if you want to ask whether the travel office  
3 was discussed, we can maybe even talk about narrowing  
4 that question further. But I think at a certain  
5 point, we are intruding upon the privacy of the  
6 Clinton family in a way that is completely irrelevant  
7 and inappropriate.

8 MR. BARTOLOMUCCI: Well, I think it will  
9 aid in the questioning if we first know who was at  
10 the dinner.

11 MR. KRAVITZ: I disagree.

12 MR. BARTOLOMUCCI: I don't know what I can  
13 ask about until I know who was present there. We  
14 know that Harry Thomasson was at the dinner. I want  
15 to know who else was present.

16 MR. KRAVITZ: For what purpose?

17 MR. BARTOLOMUCCI: Well, ultimately to find  
18 out exactly what was discussed at the dinner.

19 MR. KRAVITZ: You are not entitled to find  
20 out exactly what was discussed at the dinner. The  
21 fact of the matter is the travel office matter is  
22 outside the scope of Senate Resolution 120.

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1 You know, there may be some theory by which  
2 you could fit in something having to do with the  
3 travel office with handling of documents in  
4 Mr. Foster's office. If you can show some link that  
5 there were documents relating to the travel office in  
6 Mr. Foster's office that may have been removed  
7 improperly from that office following his death, but  
8 to ask a question about what was discussed at a  
9 family dinner in the private residence of the White  
10 House in May 1993 is totally inappropriate.

11 MR. BARTOLOMUCCI: Neal, it is well known  
12 there were travel office documents in Mr. Foster's  
13 office and since this committee is authorized to  
14 investigate what happened to the documents in this  
15 office and whether any of them were improperly  
16 spirited out of his office, it is fair game to  
17 inquire as to travel office matters as it relates to  
18 that part of our investigation.

19 MR. KRAVITZ: Let me just say, it may be  
20 well known that there were travel office documents  
21 found in Mr. Foster's office following his death.  
22 There is no evidence that any travel office documents

1 were removed from Mr. Foster's office following his  
2 death. And for you just to be fishing about some --  
3 by asking broad, general questions about what was  
4 discussed at a casual family dinner in the Clintons'  
5 private residence in May of 1993 is preposterous.

6 If you want to ask a question whether there  
7 was any discussion about documents relating to  
8 anything that were in Mr. Foster's office, I will let  
9 you ask that question. But something short of that,  
10 we are going to have to get the chairman to rule on  
11 this because this is not even close.

12 MR. BARTOLOMUCCI: Well, Neal, with all due  
13 respect, I think you are putting the cart in front of  
14 the horse. We don't know that -- whether these lines  
15 of inquiry are fruitful until we ask them. When you  
16 say there is no evidence that these documents were  
17 improperly taken from his office, we can't know that  
18 unless we ask the relevant questions.

19 MR. KRAVITZ: Ms. Stewart, do you know if  
20 any documents relating to the travel office were  
21 improperly removed from Mr. Foster's office after his  
22 death?

1 MR. BARTOLOMUCCI: Mr. Kravitz, you will  
2 have a chance to ask any questions you want after I  
3 finish my portion of this examination.

4 MR. KRAVITZ: You will be suspended here in  
5 a minute if you don't start asking something relevant  
6 to the resolution.

7 MR. BARTOLOMUCCI: I think these are  
8 relevant questions. We frequently ask about  
9 meetings, lay the groundwork for who was at the  
10 meeting and what was discussed so as to investigate a  
11 more precise matter.

12 I mean, your approach would seem to say you  
13 can't ask anything by way of laying groundwork for  
14 the question that -- and the issues that you do want  
15 to get into. I think it is fair to ask who was at  
16 this dinner, and then after that I will probe  
17 specifically, you know, into what was discussed and  
18 whether it pertained to the travel office or -- and  
19 documents in Vince Foster's office.

20 MR. KRAVITZ: Let me say, the travel office  
21 itself and the firing of White House employees from  
22 that office is not a subject that is encompassed

1 within Senate Resolution 120. If you can link it  
2 specifically to documents relating to the travel  
3 office that anyone has reason to believe were in  
4 Mr. Foster's office at the time of his death, I do  
5 believe that does come within the ambit of our  
6 resolution. But simply the travel office itself is  
7 not right today a resolution. I will not allow you  
8 to ask those questions. We will have to have the  
9 chairman rule on objections.

10 MR. ATKINS: Let me state for the record I  
11 think during -- lost during that colloquy was that  
12 Ms. Stewart answered the question no, that she did  
13 not have any knowledge about documents relating to  
14 the travel office being removed from Mr. Foster's  
15 office.

16 BY MR. BARTOLOMUCCI:

17 Q Ms. Stewart, is that correct?

18 A That's correct.

19 Q Do you have any knowledge whatsoever about  
20 travel office-related documents being in Vincent  
21 Foster's office?

22 A No.

1 Q You never saw any such documents in his  
2 office while you were in the White House?

3 A Right.

4 Q And there was no discussion at this dinner  
5 with Harry Thomasson about the travel office?

6 MR. KRAVITZ: Objection.

7 MR. BARTOLOMUCCI: You can answer.

8 THE WITNESS: Am I supposed to answer?

9 MR. KRAVITZ: No, you are not supposed to  
10 answer that question. If there is anything -- if  
11 there is anything about any conversation that may  
12 have occurred that would lead you to believe that  
13 it -- either that it resulted in documents being  
14 produced or created or that any of those documents  
15 might have ended up somehow in Mr. Foster's office,  
16 as you might understand it, maybe you should indicate  
17 yes and we can think about that further.

18 But simply whether there was a discussion  
19 of the travel office is not within the purview of our  
20 resolution.

21 MR. BARTOLOMUCCI: Neal, I have to again  
22 disagree as part of our investigation into the events



1 following Vince Foster's death and the handling of  
2 documents in his office. I think it is appropriate  
3 to inquire as to the issues which we know were  
4 weighing on Vince Foster's mind. That includes the  
5 travel office, that's revealed in the note that was  
6 discovered about a week after his death. And if --  
7 you know, if the travel office is being discussed at  
8 this dinner and Ms. Stewart has some knowledge she  
9 can share with the committee, you know, I think  
10 that's entirely proper.

11 MR. KRAVITZ: Mr. Bartolomucci, is it your  
12 position that the special committee on Whitewater is  
13 now investigating Mr. Foster's death itself and the  
14 reasons for his death?

15 MR. BARTOLOMUCCI: It is my position we are  
16 investigating the handling of documents in his office  
17 after his death. Now necessarily as part of that  
18 inquiry, it is legitimate to inquire into such issues  
19 as motivation or why people --

20 MR. KRAVITZ: Motivation for what?

21 MR. BARTOLOMUCCI: The motivation for  
22 why -- that someone might have for removing documents

1 from his office. What issues may have been on their  
2 minds, when -- if and when that occurred.

3 MR. KRAVITZ: You know, it is interesting  
4 you are talking about all these background  
5 questions. You haven't asked this witness whether  
6 Mr. Foster was at this dinner. That might be the  
7 most likely question to ask --

8 BY MR. BARTOLOMUCCI:

9 Q Was Vince Foster at the dinner?

10 A No.

11 MR. KRAVITZ: The witness has already told  
12 you she has no knowledge about any documents relating  
13 to the travel office ever being in Mr. Foster's  
14 office, and she has no knowledge about any travel  
15 office-related documents being removed from  
16 Mr. Foster's office. I just don't see where we are  
17 going with this other than information that is  
18 completely outside the jurisdiction of this  
19 committee.

20 BY MR. BARTOLOMUCCI:

21 Q Ms. Stewart, was Web Hubbell or William  
22 Kennedy at the dinner?



1 A No.

2 Q How about Ms. Susan Thomases?

3 A I don't know who she is, but I don't think  
4 she was at the dinner. I don't think I knew who she  
5 was, I don't know.

6 Q Were either of the Blairs at the dinner?

7 A Not that I recall. Again, I don't recall  
8 when this dinner was and I don't recall when Diane  
9 left, but --

10 MR. BARTOLOMUCCI: We are going to  
11 interrupt for a moment to allow the court reporter to  
12 reload.

13 (Discussion off the record.)

14 BY MR. BARTOLOMUCCI:

15 Q Ms. Stewart, I think at this point we won't  
16 take the questions about the White House dinner  
17 further into the areas that Mr. Kravitz objects to.  
18 But since we have already gone over the names of the  
19 people who attended the dinner, just to clean up the  
20 record on that, can you give me your best  
21 recollection as to who attended it?

22 A I know that there were people around the

1 table. I just can't remember who they were. I  
2 believe that whatever the name is of the woman who is  
3 married to Mr. -- to Thomas or Thomasson.

4 Q Would that be Linda Bloodworth-Thomasson?

5 A Yes, I think that's right. I don't know if  
6 she uses his last name.

7 Q Okay, but Harry Thomasson and his wife were  
8 there, is that what you are telling me?

9 A That's what I recall, yes.

10 Q And you were there. And who from the First  
11 Family?

12 A I don't remember. But I know that Vince,  
13 Web and Bill were not there.

14 Q So you are not sure that Mrs. Clinton  
15 wasn't there?

16 A I just don't remember. This is -- this  
17 is -- you know, a standard way, at least back then,  
18 that dinners went. Whoever in the family was there,  
19 ate dinner whenever they were there. And so, it is  
20 hard to know who would have been in or out when --

21 Q Can you pinpoint the time of the dinner,  
22 what day it was on within the month?

1 A Oh, no. No idea.

2 Q But it would have been during your stay in  
3 May?

4 A Yes.

5 Q Backing up a little bit to the subject of  
6 you contacting Mr. Hubbell about a possible meeting  
7 with Anne Bingaman?

8 A Yes.

9 Q Did Mr. Hubbell arrange such a meeting for  
10 you?

11 A I don't remember whether -- I actually  
12 think that what happened was he said just talk to her  
13 secretary but I set it up, but I don't remember for  
14 sure.

15 Q Did you ever end up meeting with  
16 Ms. Bingaman?

17 A Yes, I did. I did.

18 Q To discuss antitrust issues?

19 A On the health care, yes, I had some  
20 questions for her about how she thought things would  
21 work, as I recall. I think at that point they were  
22 working on the safe harbors that they put out,

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50

1 Mrs. Bingaman and her office put out a set of safe  
2 harbors in health care antitrust areas where the  
3 Justice Department was able to tell in advance that  
4 health care organizations were likely not to face  
5 antitrust problems, sort of advisory, from the  
6 Justice Department. It is standard stuff.

7 Anyway, I think at the time I went to talk  
8 to her she was working on those. That's what she  
9 told me sometime later that year.

10 Q There is something else I want to ask you  
11 about. It comes from phone logs we have relating to  
12 Webster Hubbell. We have a record of a call that you  
13 placed to Mr. Hubbell on May 14, 1993 and -- which is  
14 three days before the fax came in from the Rose Law  
15 Firm from Mr. Donovan.

16 And apparently Mr. Hubbell's secretary took  
17 down a message to the effect "will be in Vince's  
18 office until 2:45. Then at 3:00 will be in meeting  
19 for a couple of hours. Will call you after the  
20 meeting."

21 A Yes.

22 Q Did you have any sense as to what the

1 purpose of your call to Mr. Hubbell would have been?

2 A No, but more than likely it was social. I  
3 don't -- I mean, that would not be at all an unusual  
4 message. I was probably wanting to see if he wanted  
5 to have dinner that night. Who knows? If not --  
6 that wouldn't be unusual or wouldn't stand out in my  
7 memory at all.

8 Q Given it was three days before the date on  
9 the fax, you don't think this call was connected to  
10 that issue, the issues related to Mr. Hubbell's  
11 confirmation?

12 A I have no idea. It may not have even come  
13 up by then.

14 Q When you apparently left the message, "will  
15 be in Vince's office until 2:45," was that meant to  
16 indicate that you could be contacted there until that  
17 time?

18 A No, I was probably having lunch with Vince.

19 Q In his office?

20 A They have a -- they had at least -- I don't  
21 know whether they still do -- some kind of cafeteria  
22 arrangement downstairs and you just got a sandwich or

---

1 something and brought it back to your office. So if  
2 I just wanted to have lunch with Vince, that would be  
3 the most likely place to do it.

4 Q You think that you were -- you were  
5 probably having lunch with Vince Foster until 12:45?

6 MR. KRAVITZ: Why don't you tell her what  
7 time the message was left so she could have that  
8 information before she answers that question.

9 THE WITNESS: I just don't know. I don't  
10 have a memory of anything specific about this.

11 MR. BARTOLOMUCCI: Okay, that's fair  
12 enough.

13 BY MR. BARTOLOMUCCI:

14 Q Going back to the issue of when you learned  
15 about Mr. Hubbell's overbillings, Mr. Clark told us  
16 in his deposition that you probably learned about the  
17 overbillings in May or June of 1993. Do you think he  
18 is correct?

19 MR. KRAVITZ: Do you want to read to us  
20 that so it is not paraphrased?

21 BY MR. BARTOLOMUCCI:

22 Q I would be happy to.

1 "Question: When did Amy Stewart first  
2 learn of the issue of the Hubbell billing  
3 irregularities?

4 "Answer: It would have been in May or June  
5 of that year," which is a reference to 1993.

6 Does that sharpen your memory at all about  
7 when you learned about Mr. Hubbell's billing  
8 irregularities?

9 A No, because, again, I don't recall having a  
10 serious concern about those until what I think was a  
11 December partners meeting.

12 Q And that is after you gave birth?

13 A In May, I wasn't -- I wasn't in the firm.  
14 In June, I got back but that is when I found out I  
15 was having the twins and there was a problem. And I  
16 don't -- if I heard anything I sure wasn't focused on  
17 it.

18 Q Okay, so it is your testimony that, to the  
19 best of your recollection, you didn't learn of the  
20 problems with Mr. Hubbell's billing in May or June of  
21 1993?

22 A What I recall is that I first had a sense

1 of a serious concern, I just don't remember before  
2 that. See, I don't know when the firm figured out  
3 that there -- that they thought there was overbilling  
4 or anything else. I had some sense before that that  
5 somebody was questioning his billing practices, but  
6 no details about that, nothing that I believed was  
7 legitimate or a concern. It just was not a curious  
8 issue that I was aware of, because I didn't have any  
9 role in the firm management or in the investigation  
10 or anything else. But he knew I was pretty  
11 incapacitated at the time and I just wasn't a center  
12 of information so I wasn't really conscious of it  
13 seriously at all until I think December when I would  
14 have gotten back to the firm.

15 Q But it is possible before December you  
16 heard something about it, even if it didn't seem  
17 substantive at that time?

18 A Yes, without any details.

19 Q Can you be more precise about when it was  
20 that you first may have heard anything questioning  
21 Mr. Hubbell's billing practices?

22 A Oh, I really can't. I mean, I really don't



1 remember when I first would have heard it because  
2 whenever I first heard it, I shrugged it off and  
3 thought, that's crazy, Web would never do anything  
4 like that.

5 Q To your knowledge, did the firm investigate  
6 the billing practices of any other Rose partner who  
7 was or is a part of the Clinton administration?

8 MR. KRAVITZ: Objection. How does that  
9 have anything do with billing relating to Madison or  
10 billing related to work for the federal government?

11 MR. BARTOLOMUCCI: It may. We know that  
12 Hillary Clinton, Vincent Foster and Web Hubbell all  
13 did work for Madison. And I think it is fair game to  
14 inquire as to, you know, their billing practices.

15 MR. KRAVITZ: You do? Just in general?  
16 What do you think about that, Alden?

17 MR. ATKINS: Well, I think it is a stretch,  
18 but I think the question was answered by Ron Clark,  
19 the guy who was in the position of reviewing all  
20 billing records to allocate files to various people.  
21 And he testified quite candidly and truthfully that,  
22 as he was reviewing Web's billings, he saw that there

1 was a -- there were some questions, and that as he  
2 reviewed the billings of the other partners to  
3 allocate their files, that he saw no evidence of any  
4 questions. Everything was very straightforward.

5 MR. BARTOLOMUCCI: We've already talked to  
6 Mr. Clark. While we have Ms. Stewart here I want to  
7 ask if she has any knowledge about any inquiry as it  
8 may relate to Web Hubbell -- not Web Hubbell, but  
9 Vincent Foster or Hillary Clinton or William Kennedy.

10 THE WITNESS: No, again, there is just  
11 nothing I would have been involved in at the firm.

12 BY MR. BARTOLOMUCCI:

13 Q At the beginning of the deposition you said  
14 you were in the White House in the spring of 1995.

15 Can you tell me the circumstances  
16 surrounding that?

17 A I was up on business, I don't even remember  
18 what month it was, and I just called and said, did  
19 Hillary have time to say hello.

20 Q And she did?

21 A She said come on over and we walked around  
22 the track a couple of times. I think I then had to

1 go catch a plane.

2 Q Were you in the residence of the White  
3 House at all during that period?

4 A This spring, this past spring.

5 Q The spring 1995 trip?

6 A No, I think I went to the usher's office to  
7 let them know I was here, and then -- to let them  
8 know I was there so they could call Mrs. Clinton.  
9 And then walked out to the -- I walked out to the  
10 back side where the track is, had come in through the  
11 side on Pennsylvania -- from the usher's office to  
12 get to the other side and out to the track. And I  
13 can't remember if I even met her inside the House or  
14 on the track.

15 Q Did you have any discussions relating to  
16 the Rose firm with Mrs. Clinton?

17 A No. No. We talked about the twins. How  
18 Chelsea was doing.

19 MR. BARTOLOMUCCI: Well, Ms. Stewart, I  
20 thank you. I think that's all the questions I have  
21 for you. Under our normal procedures this would be  
22 Mr. Kravitz's time to ask some questions to the

1 extent he hasn't interjected them during my period,  
2 so we will just let Neal go ahead now.

3 EXAMINATION

4 BY MR. KRAVITZ:

5 Q Ms. Stewart, I do have a few follow-up  
6 questions. Shouldn't take more than a couple of  
7 minutes. And I just want to ask some questions to  
8 make sure that the record is clear, mostly relating  
9 to the files of Mrs. Clinton's. I think you  
10 testified you became the custodian of at some point  
11 in 1993.

12 Mr. Atkins at one point made a statement on  
13 the record that those files that you were holding for  
14 Mrs. Clinton beginning in 1993 had been put under  
15 lock and key at least two years ago and actually had  
16 been reviewed to see if anything was -- anything in  
17 them was responsive to document requests from our  
18 committee and other investigative bodies. And  
19 Mr. Atkins said, first, that there was nothing in  
20 those files relating to Madison Guaranty Savings &  
21 Loan, and second, that there was nothing -- that  
22 there were no client files contained in those files.

1 Are both of those statements consistent  
2 with your understanding of the materials contained in  
3 Mrs. Clinton's files that you were the custodian of?

4 A Yes. I certainly don't remember any files  
5 in either of those two categories. My memory is that  
6 they were more related to her charitable work.

7 Q By "charitable work," do you mean the type  
8 of work that Mrs. Clinton did as a member of the  
9 board of the Children's Defense Fund?

10 A Yes.

11 Q Did you look through the files? I mean,  
12 are you able to say there were no client files in  
13 there, or just none to your knowledge?

14 A None to my knowledge. I don't -- today, I  
15 don't remember. At some point, I -- in fact, I would  
16 stand over those files -- I looked through them when  
17 I think what was the first subpoena came in to  
18 confirm there was nothing responsive to that subpoena  
19 or whatever the first list that Ron sent around with  
20 all the pages of names and references. And so on my  
21 uneducated analysis, there was nothing in there that  
22 was responsive, and then I don't have any memory of

---

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1 client files being in there.

2 Q How many boxes of files are we talking  
3 about?

4 A I don't -- seems like maybe a drawer or  
5 two.

6 Q One or two drawers in a standard filing  
7 cabinet?

8 A I think that was it. Maybe there -- maybe  
9 there was a box, but I don't remember that for sure,  
10 in addition to those.

11 Q To your knowledge, were any documents  
12 removed from those files of Mrs. Clinton's from the  
13 time that they came into your custody?

14 A No. Not to my knowledge, no.

15 Q To your knowledge, were any of the  
16 documents contained in those files of Mrs. Clinton's  
17 ever destroyed after the time that those documents  
18 and files came into your custody?

19 A No.

20 Q I just want to make sure that one other  
21 point is clear on the record.

22 You indicated that at some point in 1993

1 you received a letter from Millie Alston with  
2 instructions about those files; is that correct?

3 A Yes.

4 Q Now, I believe you testified that you don't  
5 recall what any of the specific instructions were; is  
6 that correct?

7 A Right.

8 Q So, is it accurate to say then that, to  
9 your knowledge, there was no instruction from  
10 Ms. Alston to destroy any of Mrs. Clinton's files in  
11 your custody?

12 A Yes, that's right. I don't remember, but I  
13 know I didn't take any action on it whatever it was.

14 Q You didn't take any action on any of the  
15 instructions?

16 A Right.

17 Q And to your knowledge, regardless of what  
18 the instructions may have been, none of those files  
19 of Mrs. Clinton's that were in your custody have been  
20 destroyed?

21 A Right. That's my understanding.

22 MR. KRAVITZ: Thank you. That's all I

1 have.

2 MR. BARTOLOMUCCI: I just want to ask a  
3 couple of follow-up questions.

4 EXAMINATION

5 BY MR. BARTOLOMUCCI:

6 Q I think I asked this question previously,  
7 but I just wondered if you could tell me again, so  
8 that the record is clear, can you explain why you  
9 were made the custodian of Mrs. Clinton's files?

10 A I think because I was a warm body.

11 Q Just could have been anyone and it fell to  
12 you?

13 A I was a partner on third floor. Yes, I  
14 think it could have been any of us, but somebody  
15 said, hey.

16 Q Do you remember who tapped you to be the  
17 custodian?

18 A No. I really don't.

19 Q Did you have any part in the collection of  
20 information or research pertaining to Whitewater or  
21 Madison Guaranty as part of the 1992 Clinton  
22 campaign?



1 A No. Not at all.

2 Q Did you do anything with respect to  
3 collecting information or research on Madison or  
4 Whitewater after the November election?

5 A No.

6 MR. BARTOLOMUCCI: Okay, that's all we  
7 have. Thank you very much.

8 (Whereupon, at 12:50 p.m., the deposition  
9 was concluded.)

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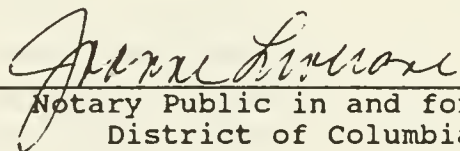
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AMY STEWART

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires

JULY 31, 2000

DEPONENT    AMY STEWART, January 29, 1996

## ERRATA

[illegible]





**DEPOSITION OF GARY J. WALTERS  
IN RE: S. RES. 120**

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**FRIDAY, FEBRUARY 2, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of GARY J. WALTERS, called for examination pursuant to notice of deposition, at 1:05 p.m. in Room 540 of the Dirksen Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.  
Majority Associate Special Counsel  
NEAL E. KRAVITZ, Esq.  
Minority Principal Deputy Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

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EXHIBITS

Gary J. Walters	
DEPOSITION NUMBER	IDENTIFIED
Walters Exhibit 1 .....	73, 1838
Walters Exhibit 2 .....	118, 1839

## P R O C E E D I N G S

MR. DINH: Mr. Walters, as you know, my name is Viet Dinh, I'm with the Majority staff. This deposition is conducted pursuant to Senate Resolution 120. The resolution establishes the Special Committee administered by the Senate Banking Committee to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and other related matters.

The Special Committee has investigated and conducted hearings into a number of subjects and our investigation continues, and that's the reason why we asked you to come today.

Section 1(b)(1) of Resolution 120 authorizes investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vince Foster following his death."

Section 1(b)(3)(A) of Resolution 120 authorizes the investigation and public hearings into "the operations, solvency and regulation of Madison

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Guaranty Savings & Loan Association and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association."

Section 1(b)(3)(C) of Resolution 120 authorizes investigation and public hearings into "the policies and practices of the RTC and federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings & Loan Association."

These subjects will be the focus of today's deposition.

Your testimony will be taken under oath and the stenographer will prepare a record of questions and answers. This deposition is conducted in advance of public hearings which are ongoing now. We have not decided who we will call at such hearings, but you will be notified if you are among the witnesses called to testify.

The transcripts of this deposition will be treated as Committee confidential until the commencement of those hearings. At that time they

1 may be made public in whole or in part.

2 Prior to the hearings, you will receive a  
3 letter from the Committee telling you that you may  
4 come to the Senate and review the transcript of your  
5 deposition and make notes of any corrections of your  
6 deposition in an errata sheet. That's for the  
7 limited purpose of review and that information is not  
8 to be disclosed to other persons.

9 If you are called to testify at a public  
10 hearing, you will be provided with a copy of your  
11 transcript approximately four days in advance of the  
12 hearings; again, for the limited purpose of preparing  
13 yourself for the testimony at the hearings.

14 You may be represented by counsel, and as I  
15 see, you are not represented by counsel today.

16 THE WITNESS: That's correct.

17 MR. DINH: I would just like to advise you  
18 that under the resolution, Resolution 120, objections  
19 as to the form of the questions will be noted for the  
20 record. There are two grounds upon which you may  
21 refuse to answer a question. That is if it concerns  
22 a privileged communication or if the question is

---

1 beyond the scope of the resolution. The Committee  
2 Chairman ultimately will decide whether to sustain  
3 your objection with respect to the questions  
4 involved.

5 Whereupon,

6 GARY J. WALTERS

7 was called as a witness and, having first been duly  
8 sworn, was examined and testified as follows:

9 EXAMINATION

10 BY MR. DINH:

11 Q Mr. Walters, can you state your name for  
12 the record.

13 A Yes, the name is Gary J. Walters,  
14 W-a-l-t-e-r-s.

15

16

17

18

19

20

21 Q And your business telephone number?

22 A Business is 202-456-2650.



1 Q Do you share that business line with  
2 anybody or is that your own personal line?

3 A The usher's office at the White House.

4 Q Do you have a direct line?

5 A That's it.

6 Q That's it, okay. From the notice of  
7 deposition, have you had any conversations outside  
8 your immediate family members or your attorneys  
9 regarding the subject matter for which you are about  
10 to testify?

11 A Say that again.

12 Q From the notice of your deposition that you  
13 will be testifying today, have you had any  
14 conversations with anybody besides your family  
15 members or your attorneys regarding this deposition?

16 A Not specific conversation, no.

17 Q Without telling me what you were asked or  
18 what you said, can you tell me whether you've been  
19 interviewed or questioned under oath by any  
20 investigative agencies regarding the subject matters?

21 A Grand Jury.

22 Q And that was last week?

1 A That is correct.

2 Q Can you give me a sense as to your  
3 background? Can you tell me your educational and  
4 professional background.

5 A I graduated from the University of  
6 Maryland, business degree. I joined the White House  
7 as a uniformed division officer of the United States  
8 Secret Service in 1970, joined the usher's office in  
9 February of 1976, became the chief usher of the White  
10 House in 1986.

11 Q Was your position with the Secret Service  
12 your first job out of college or business school?

13 A No.

14 Q You had various other --

15 A I was in the military and had a number of  
16 other small --

17 Q What was your position when you came into  
18 the usher's office?

19 A Assistant usher.

20 Q And you've been chief usher continuously  
21 since 1986?

22 A That's correct.

1 Q What are your duties as chief usher?

2 A Chief usher is responsible for the  
3 activities that take place in the executive  
4 residence, supervises and manages the staff of 89  
5 persons who are responsible for the maintenance and  
6 care of the building, the White House residence as  
7 the home of the First Family and a museum that's open  
8 to the public year-round with about a million and a  
9 quarter visitors a year.

10 Q These 89 persons, what approximate areas do  
11 they work in? Do they include the housekeeping  
12 staff?

13 A Housekeeping staff, carpenters, plumbers,  
14 food and beverage service, food and beverage  
15 preparation, curators, florists, calligraphers.

16 Q All the persons associated with the  
17 maintenance and care of the White House residence?

18 A Of the executive residence.

19 Q To whom do you report?

20 A Actually, to the President and First Lady.

21 Q How often do you see them on a weekly  
22 basis?

---

10

1 A Almost daily.

2 MR. KRAVITZ: You mean when they're in  
3 town?

4 THE WITNESS: Yes. I do not travel with  
5 them, that is.

6 BY MR. DINH:

7 Q Do you also deal with guests in your  
8 duties, make arrangements and scheduling?

9 A Seldom do we make arrangements and  
10 scheduling. We are notified what guests are going to  
11 be coming to the residence and then we take care of  
12 them from that point, see that they get to the proper  
13 rooms, possibly arrange cars to pick them up at the  
14 airport, bring them to the White House.

15 Q Where is your office?

16 A Inside the north portico of the White House  
17 on the state floor, or the first floor of the  
18 executive residence.

19 Q The first floor would be the same thing as  
20 the ground floor?

21 A No, no.

22 Q How many floors are there?

1       A    Well, there are a total of seven floors,  
2 but all those floors are not full floors. Basically,  
3 the ground floor is the floor that you enter upon  
4 when you're a tourist. That's the area that you come  
5 in on. The first floor is the state floor where the  
6 entrance is off the north portico on Pennsylvania  
7 Avenue. The second floor and the third floor, which  
8 are the family's private areas --

9       Q    And access -- with respect to access to the  
10 second and third floor, the family's private areas,  
11 where can that be gained?

12      A    There are two elevators. There's a  
13 staircase that goes from the -- there's actually only  
14 one staircase that goes all the way from the basement  
15 to the third floor. And then there's a second  
16 staircase that goes from the first floor to the  
17 second floor and a staircase that goes from the  
18 second floor to the third floor. They are not the  
19 same staircase, nor do they go to the other floors.

20      Q    Okay. So two elevators and one staircase  
21 that goes from top to bottom?

22      A    That's correct.

---

1       Q    And one set of stairs that goes only from  
2 the first to the second floor, and then a separate  
3 set of staircase that goes from the second to the  
4 third floor?

5       A    That's correct. I should say there is a  
6 third staircase, but it does not go to the private  
7 areas. It goes from the basement to a level below  
8 the second floor.

9       Q    At these various points of entrance, are  
10 there Secret Service officers or members of your  
11 usher's office staff that monitor entry and exits  
12 from the --

13      A    Uniformed division of the Secret Service  
14 and, if it's appropriate, agents of the Secret  
15 Service monitor the entrance to those various points,  
16 yes.

17      Q    At each of these points?

18      A    Uh-huh, yes.

19      Q    Does your office keep a separate record of  
20 who enters and exits the White House residence?

21      A    We keep a private log just as a courtesy  
22 for the President and the First Lady that is

1 maintained as personal records for them. And it is  
2 something that is given to them at the end of each  
3 Administration for their personal use and as a  
4 remembrance of their activities at the White House.

5 Q From where do you get the information that  
6 you put in this private log?

7 A Either from the police officer that's  
8 monitoring entrances and exits or from personal  
9 contact.

10 Q "The police officer," meaning the uniformed  
11 Secret Service officer?

12 A Yes.

13 Q So working off the set of records that he  
14 keeps -- or he or she keeps at various points?

15 A We try and maintain those records in a  
16 compatible fashion, yes.

17 Q And then you said from monitoring. Is  
18 there an official monitoring mechanism? Do you have  
19 an usher's --

20 A No, that's personal monitoring. If I was  
21 going to take you, I would know from being next to  
22 you that I took you to the second floor.

---

1 Q And you would make a note of that in some  
2 sort of log or some sort of book?

3 A Correct.

4 Q And I take it other assistant ushers do the  
5 same thing in their roles?

6 A They are principally responsible, the duty  
7 usher.

8 Q And do you compile these at the end of the  
9 day, the information that you gather from these  
10 various officers?

11 A Yes.

12 Q Every day?

13 A Uh-huh, yes.

14 Q You said the duty usher?

15 A I have three assistant ushers, actually  
16 four, four assistant ushers, I'm sorry, that have  
17 responsibility on a rotating basis for the day-to-day  
18 management of the operation of the office.

19 Q And one of them is designated as a duty --

20 A As a duty person to take care of the desk  
21 and take care of the things that are going on at that  
22 particular time.



1 Q Right. So one out of every four days one  
2 of your assistant ushers would be a duty usher?

3 A It's a rotating schedule.

4 Q Approximately --

5 A There's somebody on in the morning from  
6 early in the morning until mid-afternoon, somebody on  
7 in mid-afternoon to the evening, and then that  
8 rotates according to the activities that are going on  
9 in the House, and also to allow for days off.

10 MR. KRAVITZ: Unlike you, Viet, they don't  
11 have to work 24-hour shifts.

12 MR. DINH: Unlike you too, Neal.

13 THE WITNESS: When it snows sometimes we  
14 do.

15 MR. DINH: Thank you for that reminder of  
16 the real world.

17 BY MR. DINH:

18 Q And the duty usher would keep a log. Is it  
19 the same set of logs for each duty usher or is it --

20 A It is a log for the office.

21 Q For the entire office, the notation would  
22 be made by various different people but the log

1 remains the same set of books?

2 A That's correct.

3 Q Where does the duty usher sit? Is there a  
4 duty usher desk or do they all sit in their various  
5 work stations?

6 A No, there's a duty usher desk. It's in the  
7 usher's office on the state floor adjacent to the  
8 north portico.

9 Q Near your office?

10 A That is my office.

11 Q That is your office, okay. And there is an  
12 entrance to the White House residence on the state  
13 floor?

14 A Well, the executive residence is the whole  
15 building, so there's the north portico, south  
16 portico, the east and the west entrances. Are you  
17 talking about the private areas?

18 Q Yes.

19 A There is adjacent to the usher's office is  
20 the staircase that I mentioned earlier that goes from  
21 the basement to the third floor, and adjacent to that  
22 is the elevator that also goes from the basement to

1 the third floor.

2 Q Is that the primary point of access to the  
3 executive areas of the residence -- I mean to the  
4 residence?

5 A I would have to ask you, private access for  
6 whom?

7 Q How about for overnight guests?

8 A Yes. If I can, those two elevators, the  
9 one adjacent to the usher's office, is referred to as  
10 the President's elevator or elevator number 1, and  
11 the second elevator is the service elevator, or the  
12 back elevator, elevator number 2.

13 Q Besides the overnight guests, can you  
14 describe to me who else uses that elevator in order  
15 to gain access to the private areas of the  
16 residence?

17 MR. KRAVITZ: Let's specify which elevator  
18 you're talking about.

19 BY MR. DINH:

20 Q The President's elevator, elevator  
21 number 1.

22 A The President, his family, their guests and

1 some staff members who have access.

2 Q And which staff members have access, those  
3 with a blue pass?

4 A No. The principal access is by the  
5 executive residence staff, who have a blue pass, but  
6 it also has a code at the bottom that says "res,"  
7 which designates residence. Although the majority of  
8 the residence staff use the number 2 elevator, there  
9 are occasions to use the President's elevator or  
10 elevator number 1.

11 The other individuals that are on the  
12 staff, the President's or the First Lady's staff,  
13 there is an access list of people who have the  
14 ability to come and go up to the upper level, without  
15 being challenged by the police officers, to go above  
16 the first floor level, to go to the private quarters  
17 level. And that's determined by the First Family as  
18 to who they wish to have uncontrolled access.

19 Q Do you maintain this list?

20 A Secret Service has the list. By  
21 familiarity, we know who most of those individuals --  
22 well, we know who all those individuals are.

1 Q Right. So just so I understand the access  
2 of various staff members, those with a blue pass can  
3 enter the entire residence -- can enter the  
4 residence, the first floor and the ground floor?

5 A The color of the pass does not determine  
6 the access to the executive residence. It's the  
7 color plus the coding.

8 Q The coding allows you to go above the first  
9 floor; is that right, did you say?

10 A The coding on the pass determines for the  
11 Secret Service, in addition to coloration, the  
12 various accesses that people have. In the case of  
13 the executive residence staff, the 89 individuals, we  
14 have a blue pass that has "res" on it. That allows  
15 those individuals to travel unimpeded or unchallenged  
16 throughout the executive residence.

17 There are other blue passholders who have  
18 other codes; WH for White House staff, or -- I don't  
19 know what all the codes are. The Secret Service  
20 controls those codes. And so the ones that have  
21 unimpeded access are the res passholders and the U.S.  
22 Secret Service; USSS is on their code.

1 Q And whoever else is on that list that you  
2 mentioned earlier?

3 A And what is on that list, who do not have  
4 an res pass.

5 Q Or USSS designation? .

6 A Right.

7 Q So those are the three categories of staff  
8 members who would have unchallenged access to the  
9 private areas of the residence?

10 A That's correct.

11 Q Are those the only three groups?

12 A That have passes.

13 Q Okay.

14 A There is, for the private guests of the  
15 First Family, there is a pass that says "guest," that  
16 they are issued when they come in and are guests of  
17 the Family, who will be staying there, and that  
18 allows them to travel.

19 Q Right, okay. Now, you said unimpeded and  
20 unchallenged, but I take it that does not mean  
21 unrecorded? Do those people get recorded on the logs  
22 that you had mentioned earlier?

1 A No.

2 Q They do not.

3 A The executive residence pass holders do not  
4 get put on that log. The Secret Service officers do  
5 not get put on that log. The individuals on the  
6 President's -- more so the First Lady's staff who  
7 have more frequent, almost daily, access are not  
8 included on there. We would have just pages of the  
9 same name.

10 Q By these individuals, do you mean Maggie  
11 Williams?

12 A Under most circumstances, Ms. Williams  
13 would be on the log.

14 Q On the log.

15 A I'm referring to Capricia Marshall, Carolyn  
16 Huber.

17 Q Anybody else?

18 MR. KRAVITZ: I just want to make sure  
19 we're all talking about the same thing. Are you now  
20 talking about the people on the First Lady's list,  
21 staff list, whose names don't go on the usher's  
22 logs?

1 THE WITNESS: That's correct.

2 MR. KRAVITZ: Or are you talking about the  
3 people from the First Lady's staff who are on the  
4 list that gives them unchallenged access throughout  
5 the residence, or is that the same -- are we talking  
6 about the same group?

7 THE WITNESS: We're talking about some of  
8 the same people, yes.

9 MR. KRAVITZ: But it's not the entire group  
10 or it's not entirely --

11 THE WITNESS: No. Maggie Williams would  
12 have unchallenged access to go up.

13 MR. KRAVITZ: Viet, maybe what we should do  
14 is ask him first to name everyone he can think of who  
15 is on the unchallenged list and then have him from  
16 that, from that list tell us from one -- which ones  
17 get put on the log and which ones don't.

18 BY MR. DINH:

19 Q That's perfectly fine. This is not to  
20 trick you or anything, not a quiz, just to the best  
21 of your recollection or memory. We will request the  
22 list from the Secret Service so just for the sake of



1 clarity, if you can just give us --

2 A Because it does change according to who may  
3 hold a position, the President's chief of staff,  
4 Mrs. Clinton's chief of staff; Capricia Marshall,  
5 Carolyn Huber.

6 Q Is Patti Solis on the list? She's the  
7 First Lady's scheduler.

8 A Early in the Administration she was on the  
9 list, I believe. I haven't seen that list for some  
10 time. The times that I know recently that in  
11 particular Patti Solis would go to the second floor,  
12 she would be logged in our log, as a remembrance once  
13 again for the family.

14 Q So we're still only talking about the  
15 access list. I'll get to the log a little bit  
16 later.

17 A Yes. And I haven't seen that list in some  
18 time. I've given you the names of the people that I  
19 know right now who, in the recent past, have  
20 unchallenged access.

21 Q Okay, great. We will request that list to  
22 verify for sure, but now moving on to the people who

1 you have named as to be on this list who have  
2 unimpeded access, can you give me the names of the  
3 people who would have unrecorded access, that is  
4 access without any record in your log?

5 A Capricia Marshall, Carolyn Huber, to my  
6 recollection, are pretty much the only two because  
7 they have such frequent access because of the duties  
8 that they perform. I should also say that even  
9 people on that list who would come to the executive  
10 residence, when the President and First Lady weren't  
11 there, because we help protect the President's  
12 privacy would be asked, and they probably would show  
13 up on the list.

14 Q Would be asked what?

15 A Just for the family's personal knowledge.

16 Q So let's say the President and the First  
17 Lady are not in the residence, are not in the  
18 residence at the time Ms. Marshall wishes access to  
19 the third floor.

20 A She has unimpeded access.

21 Q She has unimpeded access, and in normal  
22 circumstances, she would not be recorded on a log?

1 A That's correct.

2 Q But because the First Lady and President  
3 are absent, is her --

4 A She would not be recorded.

5 Q She would not be recorded, okay.

6 A And I mentioned Ms. Huber. Ms. Huber, when  
7 she would be escorting family guests, would be  
8 recorded because she'd be going up at the same time  
9 as the guests, so she's performing a bit of a  
10 different duty at that point when she's escorting  
11 guests.

12 Q Does that apply also with Ms. Marshall or  
13 does she ever --

14 A No.

15 Q So how is the procedure different when the  
16 First Lady and the President are not there? You were  
17 suggesting there was some different recording  
18 procedure when the President --

19 A Not different. We would just record it.

20 Q You would record it, the people on the  
21 list?

22 A Yes.

1 MR. KRAVITZ: Viet, can I just ask one  
2 question --

3 MR. DINH: Sure.

4 MR. KRAVITZ: -- because I'm confused. I  
5 thought you said that even if the President and First  
6 Lady were absent, Capricia Marshall still would not  
7 be recorded?

8 THE WITNESS: That's correct.

9 MR. KRAVITZ: Is it the same thing for  
10 Huber? If Huber went to the third floor while the  
11 President and First Lady were absent, would Huber be  
12 recorded?

13 THE WITNESS: No.

14 MR. KRAVITZ: So how -- if those are the  
15 only two who don't get recorded even when the  
16 President and First Lady are there, how is there any  
17 difference when the First Lady and the President are  
18 gone?

19 THE WITNESS: If anybody else other than  
20 those two were to --

21 MR. KRAVITZ: But I thought you said -- for  
22 example, let's just use an example Leon Panetta, if

1 he goes up to the third floor and the President and  
2 First Lady are there, does he get recorded?

3 THE WITNESS: Yes.

4 MR. KRAVITZ: What if he goes up there when  
5 they're not there?

6 THE WITNESS: One of our staff would go  
7 with him.

8 MR. KRAVITZ: Would it be recorded?

9 THE WITNESS: Yes.

10 MR. KRAVITZ: So I guess it's the same --

11 THE WITNESS: The thing about it is that  
12 these logs are not -- that we keep are not official  
13 logs, they're informal logs for the family's  
14 information, and we try and keep information for  
15 them.

16 BY MR. DINH:

17 Q So the logs remain the same whether or  
18 not -- information contained in the log, that is who  
19 was recorded as far as the entries and exits, remain  
20 the same whether or not the President and First Lady  
21 are there?

22 A Say that again, I'm sorry.

1 Q The people whose names are recorded on the  
2 log are the same whether or not the President or the  
3 First Lady are present in the residence; it's only  
4 with respect to your accompanying people with access  
5 when the President and First Lady are not there that  
6 is different?

7 A Yes, I believe that's the case.

8 Q So in essence, when the President and First  
9 Lady are not present in the private quarters, that is  
10 they are not in the residence, even people who are on  
11 the access list get accompanied because of your  
12 concern for the First Family's privacy?

13 A Yes, with the exception of Carolyn Huber  
14 and Capricia Marshall.

15 Q They pretty much have the run of the place?

16 A Capricia Marshall spends a good deal of her  
17 time on the second floor of the residence and in the  
18 usher's office, conducting the business that she  
19 does.

20 Q And on the third floor?

21 A I have to assume so. We do not keep a log  
22 that indicates people moving about once they go above

1 our level, because that is once again -- that would  
2 be an invasion of the family's privacy.

3 Q Do you, in your professional capacity and  
4 your daily duties, have reason to go into the third  
5 and second floors?

6 A Yes.

7 Q And from that experience, independent of  
8 the logs, do you see Ms. Marshall and Ms. Huber in  
9 the third floor?

10 A Yes.

11 Q Regularly?

12 A Yes.

13 Q What about Susan Thomases, is she on the  
14 access list?

15 MR. KRAVITZ: Right now or at some other  
16 time?

17 BY MR. DINH:

18 Q Say in August of 1995.

19 A No, I don't believe so. But once again,  
20 that access list is maintained, as are the official  
21 records, maintained by the Secret Service, so I'm  
22 really telling you something that's a document that

30

1 the Secret Service maintains and that I don't. So if  
2 there was an access list that was provided to the  
3 police on July 1 that covered that period, and I  
4 haven't seen it, I don't know that.

5 Q Right, I understand. I just wanted to --  
6 just wanted to see if you, to the best of your  
7 recollection or knowledge, knew that she was on the  
8 list.

9 A I don't believe so.

10 MR. KRAVITZ: Can I ask one more question?

11 MR. DINH: Sure.

12 MR. KRAVITZ: I could be wrong, but I think  
13 there are some instances on the usher's logs that  
14 we've been sent where Carolyn Huber's name is on  
15 there, but it does not indicate that she is  
16 accompanying a guest, she's just on there by  
17 herself. What would explain that?

18 THE WITNESS: I would have to see what it  
19 was, what the circumstances were. And once again,  
20 these are done by as many as five different people  
21 and somebody may have put that on there and just --  
22 even though it wasn't necessary.



1           Once again, there are no set procedures for  
2 this log. It's an informal thing that we keep. Once  
3 again, I hate to keep repeating myself, but it's  
4 something that we keep for the family's personal  
5 knowledge.

6           BY MR. DINH:

7           Q   We're still talking about the usher's logs,  
8 we're not talking about the Secret Service logs.

9           A   All right, fine.

10          Q   Now, with respect to that, let me just  
11 clarify by showing -- and asking you to identify  
12 whether or not those are what we were talking about.  
13 Is this an example of what you refer to as your log?

14          MR. KRAVITZ: Could you say what you're  
15 showing him?

16          MR. DINH: I want him to identify it  
17 first.

18          THE WITNESS: It appears to be. It's -- it  
19 appears to be a computer printout or a print, whether  
20 it was by computer or by typewriter, but it's the  
21 kind of thing that we put, yes. It looks very  
22 familiar to me.

1           BY MR. DINH:

2           Q   Can you read the number at the bottom of  
3 that for me?

4           A   S 020001. And this is certainly the form  
5 that we would keep the log.

6           Q   And it says "the White House" up on top,  
7 and "Washington"?

8           A   That's correct.

9           Q   And has the date of the relevant --

10          A   Of the specific day.

11          Q   Can you tell me what OTR on the left-hand  
12 column means?

13          A   Off the record.

14          Q   What does off the record mean?

15          A   That somebody requested that this be an  
16 off-the-record meeting. It's something that probably  
17 was not going to be publicized.

18          Q   But you have it here on the record, as it  
19 were?

20          A   That's correct. Quite frequently, it may  
21 mean that it's not on the President or First Lady's  
22 public schedule.

1 Q By "public schedule," you mean the schedule  
2 that is released daily by the White House?

3 A Released to the press.

4 Q Is that done daily, do you know?

5 A What?

6 Q The President and First Lady's schedule.

7 A I have to say I believe so, but I don't  
8 know. That's something you'd have to ask the -- I'm  
9 not responsible for it, I can tell you that, so I  
10 really don't know.

11 Q And you said these logs are compiled from  
12 personal observation and from information from the  
13 official U.S. Secret Service logs?

14 A From the police officers. There may be  
15 occasions -- in fact, I know there are occasions when  
16 the officers have not written everything down, or  
17 have gotten some names wrong of individuals. And we  
18 try and balance between what we know and what they  
19 have written down and what we've written down to try  
20 and keep them accurate.

21 Q So let's say you have -- you know from your  
22 duties, the duty assistant usher has accompanied a

1 guest up to the residence, up to the private quarters  
2 of the residence. And at the end of the day -- and  
3 he makes a notation of that. At the end of the day  
4 he checks the U.S. Secret Service logs and that  
5 particular entry by that particular guest was not on  
6 the U.S. Secret Service log.

7 Would you then put it on your official log?

8 A We don't compile the two at the end of the  
9 day, take the Secret Service log and compare it  
10 against ours.

11 Q You just compare it --

12 A We do not.

13 Q You do not.

14 A It's not a standard procedure for us, at  
15 the end of the day, to call the police officer and  
16 say we have this, you have this and compile them.

17 Q Do you do that at any point?

18 A No.

19 Q But I thought you said that you -- your log  
20 is based upon in part the information from the police  
21 officer's log.

22 A That's right. If they call me and say the

1 President just got on the elevator and is going to  
2 the second floor, I might type that down at that  
3 moment, or I might be in the middle of a phone  
4 conversation, and I may return and write that down  
5 and forget the time; at which time, I'd call the  
6 police officer and say you called me a few minutes  
7 ago and said the President went up. Could you tell  
8 me what time you have in your log?

9 Q I see. That's an important point. So your  
10 logs are separate from the U.S. Secret Service logs?

11 A Yes. As I said, theirs is an official  
12 log. Ours is an informal log.

13 Q I'm going to show you a document numbered S  
14 020325, and on the top it says "F1 movement log" and  
15 ask you if that is what you have seen to be the  
16 official U.S. Secret Service log.

17 A This appears to be the log that's kept by  
18 the police officers, yes.

19 Q And it has the individual's name and the  
20 times of up and down?

21 A That's correct.

22 Q Now, "up" means going up to the private

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1 quarters of the residence?

2 A That's correct.

3 Q And "down" means coming down from there?

4 A That's correct.

5 Q These are actual -- these are movements  
6 into either the second or the third floor of the  
7 residence, what we have now referred in shorthand as  
8 the private quarters; is that right?

9 A To the best of my knowledge, yes.

10 MR. KRAVITZ: Viet, if you think this is  
11 bad, just imagine if he has 23 people asking him  
12 questions like this in the Grand Jury. That must  
13 have been a real treat.

14 THE WITNESS: Enough said.

15 (Laughter.)

16 BY MR. DINH:

17 Q Given those procedures that you have  
18 described to us, is it possible for a person to enter  
19 the second or third floor of the White House  
20 residence without being recorded on your particular  
21 set of logs?

22 A Without being recorded on our logs?

1 Q Yes.

2 A It's possible, yes.

3 Q Simply because you did not observe the  
4 person entering or exiting or --

5 A Other duties may have called the usher  
6 away --

7 Q From the duty desk?

8 A -- and he may not have been there to  
9 receive the call and it may not have been reconciled  
10 at a later time. Forgetfulness occurs at times. We  
11 are given information, and in the course of the  
12 actual activities, just may not have -- forgot to put  
13 it down.

14 Q What I showed you earlier and what you  
15 identified as your usher's log was a typed printout,  
16 it was not handwritten?

17 A That's correct.

18 Q Are your entries entered directly into the  
19 computer?

20 A Yes.

21 Q There is no written record, there's no  
22 logbook as such?

1 A No.

2 Q And this computer is maintained at the duty  
3 officer's desk?

4 A That's correct.

5 Q Is it connected to the White House network?

6 A It is not.

7 Q It is a stand-alone computer?

8 A It is connected in-house in the executive  
9 residence. We have our own local area network and we  
10 do not connect to other instruments, and we do not  
11 have connectivity for the privacy issue reasons.

12 Q But it is contained in a local area network  
13 within the residence?

14 A Within the executive residence, that's  
15 correct.

16 Q Who else is on this network besides your  
17 staff?

18 A Besides --

19 Q Your staff, the 89 people.

20 A -- the 89 people. No one.

21 Q Do you give your staff any training in  
22 confidentiality?



1 A Yes.

2 Q At what point do you give this training,  
3 when they are first hired?

4 A Before they're hired.

5 Q Before they are hired?

6 A That's why this is very difficult for me.

7 Q I understand.

8 A I talk about privacy with people before we  
9 even hire them, and let them know that one of our  
10 responsibilities is the First Family's privacy. And  
11 of the many people I've hired for the executive  
12 residences, it's the very first thing that I talk to  
13 them about after they're interviewed by the various  
14 areas where they may be working, the supervisors of  
15 those areas, and because I consider that a sacred  
16 trust, which makes this process very difficult for  
17 me.

18 Q I understand that. And this talk that you  
19 have with your -- with newly hired staff or  
20 prospective staff members, that's with everybody,  
21 each of the 89 persons?

22 A Without exception.

1 MR. KRAVITZ: Well, is it clear, have you  
2 hired all 89 people who are there?

3 THE WITNESS: No, I have not.

4 BY MR. DINH:

5 Q There are 89 positions?

6 A There are 89 positions, and I have not --  
7 many of them -- there's one gentleman that's been  
8 there as long as 50 years so I certainly didn't hire  
9 him.

10 MR. KRAVITZ: Viet, just the point that all  
11 of the people Mr. Walters has hired have had this  
12 conversation with Mr. Walters.

13 THE WITNESS: Yes.

14 BY MR. DINH:

15 Q Do you have weekly meetings with your  
16 staff?

17 A With my supervisors.

18 Q With your supervisors. How many  
19 supervisors are there?

20 A Let's see. I have two painters and I have  
21 one supervisor, two plumbers and one supervisor. Do  
22 you want me to run through all of them?

1 Q Approximately how many supervisors do you  
2 have?

3 A 16.

4 Q You spoke earlier of the confidentiality as  
5 a private trust, a matter of sacred trust for your  
6 staff, or at least for you personally, and you try to  
7 convey that to your staff, those who you have hired  
8 since you've come on board. Is that the common  
9 understanding of the entire staff?

10 A Yes, it is.

11 Q Is it a safe assumption that the same talk  
12 was given to each of the prospective or recently  
13 hired staff members by previous head ushers?

14 A I believe so, yes.

15 Q And what sort of things do you tell  
16 these -- your prospective or newly hired staff?

17 A Basically what they hear and what they see  
18 on the second floor of the executive residence is the  
19 personal property of the First Family and belongs to  
20 them.

21 Q So that would include not removing any  
22 documents from the --

1 A Unless they were told to do so.

2 Q You are also in charge of various  
3 carpenters and maintenance people. Does that also  
4 include -- do your duties also include hiring of  
5 outside contractors for various construction projects  
6 that are needed in the White House residence?

7 A Occasionally, yes.

8 Q For these outside contractors, do you have  
9 the same procedures in order to insure the  
10 confidentiality of information gained by the  
11 employees of the outside contractors?

12 A I don't have personal contact with each and  
13 every outside contractors' employee, but I do have  
14 some contact with the supervisors and make sure that  
15 they understand the privacy of the First Family --  
16 that they're working in an area that does belong --  
17 it's somebody's home.

18 Q With the expectation that that information  
19 or expectation would be imparted to their employees?

20 A That's correct, and that they will also be  
21 under the escort of some of the residence staff or  
22 the Secret Service.

1 Q At all times?

2 A At all times.

3 Q At all times. And who are these escorts,  
4 besides the Secret Service? Who on your staff serve  
5 this function as escort for the outside contractors?

6 A Anybody on the staff could be put in that  
7 position.

8 Q And by "staff," I'm sorry, I was --

9 A Executive residence staff.

10 Q Executive residence staff.

11 A The 89. And the 89 includes me so it's 88  
12 plus me.

13 Q So if, let's say, there was nobody  
14 available, you would ask a maid to accompany the  
15 construction workers and escort them?

16 A Unlikely that a maid would, but the  
17 housekeeper, the housekeeper's assistant.

18 Q How many people are in the housekeeper's  
19 staff?

20 A 18.

21 Q In this discussion regarding  
22 confidentiality and privacy you either have with

1 newly hired employees, prospective employees or  
2 supervisors of outside contractors, do you make any  
3 specific mention of records or other materials other  
4 than information they see or hear, actually tangible  
5 records or other materials that are found in the  
6 White House, such as --

7 A I'm not sure I understand.

8 Q Do you tell them not to remove any records  
9 from the White House?

10 A I tell them not to remove anything.  
11 They're not supposed to remove furniture, they're not  
12 supposed to read the magazines. These are personal  
13 property of the Family and they are to leave things  
14 where they find them. And if they need something  
15 moved, whether it be a piece of furniture or a  
16 carpet, they are to notify the escort that's with  
17 them, and we will get the proper individuals to move,  
18 in most cases, what amounts to antique furniture.

19 Q Right. How about something not as big as  
20 furniture? How about, say, a book that is in their  
21 work area?

22 A As I said, they are not supposed to move

1 magazines, books, anything.

2 Q Right. So if they see a book that is in  
3 the area where they're supposed to be doing work, and  
4 obviously they cannot do work with that there, they  
5 would notify the escort who would then move it or  
6 would get somebody else to move it?

7 A That's correct. That's the procedure.

8 Q And I take it that includes something like  
9 an 11-by-17 -- like 117 pages of 11-by-17 printed  
10 records?

11 A It includes everything.

12 Q Let me ask you specifically about two  
13 construction projects that I believe occurred  
14 sometime around the time period between July and  
15 August of last year, July and August of 1995. And I  
16 would ask you some specific questions regarding these  
17 projects.

18 First is a project I believe to deal with  
19 the HVAC system.

20 A Correct.

21 Q When did that project start?

22 A June of '93, I think was the award date of

1 that contract with subsequent on-site activity by the  
2 contractor later that summer. I don't remember the  
3 specific date.

4 Q 1993?

5 A '93 was the award date of the contract, if  
6 I'm not mistaken.

7 Q On-site later that summer in 1993?

8 A Later that summer.

9 Q When did the project conclude? It's still  
10 going on?

11 A Sometime in the future.

12 Q Hopefully.

13 A Hopefully. Well, it will conclude.

14 Q Specifically with respect to an area of the  
15 third floor of the residence, of the White House  
16 residence, and the area surrounding the book room and  
17 the exercise room and Mrs. Clinton's office on the  
18 third floor of the White House residence, when did  
19 the HVAC work occur in that specific area?

20 A There was early survey work that occurred  
21 in 1993, and on and off for the last 2-1/2 years  
22 there's been work in those areas. That's one of the



1 principal areas on the third floor that has received  
2 work. In fact, in the exercise room that you just  
3 mentioned, there's an access point to a crawl space,  
4 and that's for the southwest corner of the building;  
5 on the third floor that's the access point, so there  
6 was survey work that went on. As to what specific  
7 days there was access there, I don't know off the top  
8 of my head.

9 Q Was there work in that area around July and  
10 August of 1995?

11 A Yes.

12 Q Specifically with respect to this access  
13 point to the crawl space?

14 A Yes, and the other areas that you  
15 mentioned.

16 Q There is no such access point in the book  
17 room; correct?

18 A Access to the crawl space?

19 Q Yes.

20 A That's correct.

21 Q Was there any specific work done with the  
22 HVAC system in the book room?

1 MR. KRAVITZ: When?

2 BY MR. DINH:

3 Q In July and August of 1995.

4 A There was -- I'm specifically familiar with  
5 some ceiling repair that had to be done in that room.

6 Q Right. That's the second construction  
7 project to which I will refer.

8 A This is in 1995 we're talking about, July  
9 and August. And at one point we punched some holes  
10 in the walls, but I don't remember specifically -- I  
11 don't have the documentation as to what rooms and  
12 what specific dates holes were punched in the walls  
13 to allow ductwork and utility conduit to be put  
14 through various areas.

15 Q Other than the ductwork and utility  
16 conduit, were there any other -- and I take it in  
17 order -- other than ductwork and utility conduit, was  
18 there any other work relating to the HVAC project in  
19 the book room, in July and August?

20 A July and August of '95?

21 Q Right.

22 A Part of that time I was on vacation, so I

1 can't specifically refer to the latter part, in  
2 August. And there was a considerable amount of work  
3 that went on during that period because we were  
4 getting ready for the Family to take a vacation at  
5 the end of the summer. And it was during that time  
6 when we were going to do a considerable amount of  
7 work.

8 Without having specific documents here to  
9 refer to, I can't specifically say that I've  
10 described to you everything that went on in that  
11 room, but to the best of my knowledge, the punching  
12 of the holes in the walls and the ceiling repair are  
13 the only two things.

14 Q When you're talking about "specific  
15 documents," are you referring to -- what kind of  
16 documents are you referring to?

17 A The National Park Service, whose project  
18 this is to manage, maintains a work log which is  
19 general in nature, but it gives the general areas  
20 that each contractor worked during the day. And that  
21 document is produced by the contracting officer's  
22 representative, who is the one that verifies whether

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1 or not the contractor is doing the work that they are  
2 being paid to do.

3 Q It's part of the contract administration  
4 process?

5 A Administration, that's correct.

6 Q I'm going to hand you a document numbered S  
7 020087 and ask you if this is the kind of document  
8 that you were talking about.

9 A Yes, it is.

10 Q Very good.

11 A As it says, a daily log of construction.

12 Q We do have these documents for you to refer  
13 to. Perhaps we will take a break a little bit later  
14 and ask you to look through them briefly. And I'll  
15 go into more specifics regarding this area, but for  
16 now let's move on to the more general points.

17 Can you tell me when you went on vacation  
18 last year?

19 A I'll have to look at my calendar.

20 Q Please feel free.

21 A This was July and August of '95; right?

22 Q Yes.

1 A I was on vacation from the 4th of August; I  
2 believe I returned to work the 23rd of August.

3 Q Who performed your duties, I guess, as  
4 acting chief usher when you were on vacation?

5 A The duty ushers have that responsibility as  
6 part of their operation. My primary assistant is  
7 Mr. Dennis Freemyer, who is also the supervisor of  
8 this specific project and other projects at the White  
9 House in the executive residence.

10 I make the distinction between the  
11 executive residence and the White House because I'm  
12 talking about the building in which the President  
13 lives.

14 Q And you are responsible for the executive  
15 residence?

16 A Not the wings, which belong to the General  
17 Service Administration as office space.

18 Q Can you spell Mr. Freemyer's last name for  
19 us?

20 A F-r-e-e-m-y-e-r.

21 Q When you said he was responsible for this  
22 particular project, you mean the HVAC project that

1 we've been talking about?

2 A Yes.

3 Q Let me ask you some general questions  
4 again, and then we will later ask you to look at the  
5 daily construction logs in order to refresh your  
6 memory with respect to this or to verify your  
7 testimony, but let me ask you some general questions  
8 regarding some construction that was done in the  
9 office of the First Lady --

10 A All right.

11 Q -- on the third floor.

12 A You're talking about third floor?

13 Q Right. As I understand it, this office is  
14 off the hallway from the book room.

15 A That's correct. Well, it's off the  
16 hallway. I wouldn't say it's off the hallway to the  
17 book room.

18 Q Off the main hallway?

19 A There's a central corridor, and that office  
20 is off of that corridor, as is the book room.

21 Q And they're next to each other, the  
22 entrances?

1 A Kitty-corner across.

2 Q When you say "kitty-corner," approximately  
3 how far are the entrances apart?

4 A The entrances to the room are about 8 feet  
5 apart.

6 Q But "kitty-corner," meaning they form an L?

7 A One door opens to the south, the other door  
8 opens to the west.

9 Q Thank you very much. It's sort of hard to  
10 get graphic images into words, I understand.

11 Now, was there some construction work done  
12 in the office of the First Lady at or about this  
13 time; that is, July and August of 1995?

14 A Yes.

15 Q And what did that work include, entail?

16 A It entailed running ductwork and conduit in  
17 a closet that's in the northeast corner of the room,  
18 and there was other work that was done. The diffuser  
19 in the ceiling which departs air to the room was  
20 modified, but I can't remember specifically the dates  
21 when that was done. And I'm not aware of any other  
22 work that was done in that room, no.

---

1 Q Approximately -- now, I've said July and  
2 August of 1995. Within that time frame, can you give  
3 me a more specific identification as to the dates  
4 with respect to the closet, the ductwork for the  
5 closet?

6 A It was either late in July or early August  
7 because once again, this was done in preparation for  
8 the work that was going to be taking place when the  
9 President and First Lady were out of the House.

10 Q Right. I take it the work, the ductwork  
11 and running the conduit in the closet, required the  
12 removal of all contents of the closet?

13 A That closet was going to be taken up in its  
14 whole. That closet was going to be used as a chase,  
15 if you would, between floors, and it was going to no  
16 longer be a closet.

17 Q Okay. So it would be taken out of its  
18 operation as a closet?

19 A That's correct.

20 Q Has it been successfully shut off for use  
21 as a closet?

22 A Yes.



1 Q So the door does not open now?

2 A If it does, it opens into ductwork. I  
3 don't specifically remember opening that door  
4 recently. Once again, that portion of the project  
5 was run specifically, on a day-to-day supervisory  
6 side, by Mr. Freemyer. And he would know better than  
7 I the specific date that that closet may have been  
8 requested to be emptied or certainly in a time frame,  
9 and whether or not there's any door there, there's a  
10 minuscule amount of room. I'm just not that familiar  
11 with it.

12 Q Right. That's fine. So to ask you to  
13 state the obvious, obviously all the contents of the  
14 closet had to be removed prior to any work being done  
15 to convert this closet into an entire duct?

16 A Yes.

17 Q And I take it the construction workers did  
18 not do that?

19 A No, they -- I didn't see it emptied and I  
20 don't know the specific date that it was emptied, so  
21 I can't say specifically that they didn't do it, but  
22 that would not have been the process.

1 The process would have been that they would  
2 have requested the closet be emptied by a specific  
3 date. And our staff would have taken care or would  
4 have requested that it be emptied. I just -- I  
5 wasn't involved on a day-to-day basis like that.

6 Q Okay. And if there were any materials  
7 remaining in the closet when the construction workers  
8 came, in order to perform the work, again the  
9 procedure would be for them to contact a staff  
10 member, their escort or another staff member, to  
11 remove any such materials from the closet?

12 A That's correct.

13 Q Before they begin work?

14 A That's correct.

15 Q They would not remove it themselves to  
16 another place?

17 A Procedures wouldn't call for them to remove  
18 it, but not being there, I can't specifically say.

19 Q Great.

20 MR. KRAVITZ: Would there be any kind of  
21 record of when the closet was emptied?

22 THE WITNESS: Unless there was something

1 that caused the contracting officer's representative  
2 to write it on his log, his construction log, I don't  
3 know where else it would be recorded because this was  
4 the kind of thing we were doing in a number of  
5 places.

6 BY MR. DINH:

7 Q Would that request for a closet to be  
8 emptied by a specific date have been made most  
9 logically to Mr. Freemyer?

10 A Or one of the other assistant ushers.  
11 Anybody in the office may have relayed that request,  
12 or had that request made of them.

13 Q Do you know what happened to the contents  
14 of the closet?

15 A I do not. In fact, I don't even know  
16 whether there was anything in the closet.

17 Q Exactly. Thank you. Because you did not  
18 personally supervise the work nor did you personally  
19 witness the closet being emptied?

20 A That's correct.

21 Q Now, let me ask you about what I referred  
22 to as the second construction project, when I started

1 off this line of questioning regarding construction  
2 projects, and you alluded to it briefly. And by that  
3 I mean, the ceiling work --

4 A There's not a separate project.

5 Q It's not a separate project?

6 A Part of the same project. By virtue of the  
7 work they were doing on the HVAC project that caused  
8 the ceiling to rupture, if you will, and that's what  
9 caused the ceiling to have to be repaired.

10 Q I believe Ms. Capricia Marshall's words  
11 were "I thought a man was going to fall on me."

12 A I think that was the image that she  
13 conveyed to us.

14 Q Do you remember approximately when this  
15 was?

16 A I don't. I do remember seeing a document  
17 at some point from the construction project that  
18 indicated ceiling repair, but I don't recall that  
19 specific date.

20 MR. KRAVITZ: Did he say which room this  
21 happened in?

22 MR. DINH: This was in the book room.

1 BY MR. DINH:

2 Q Do you remember approximately which corner  
3 of the book room the ceiling was in need of repair?

4 A I do not.

5 Q Do you remember approximately how long it  
6 took to repair the ceiling?

7 A I don't have a specific recollection of  
8 days but it would have been done in a time frame when  
9 we would have had access to the area by the  
10 contractor and also would have depended on the  
11 necessity. If it had to be plastered and then had to  
12 dry and then be painted, it could have taken as long  
13 as a week. It probably took somewhat less time.

14 Q Now, was this work being done by the sub --  
15 by the HVAC contractor or would it have been done by  
16 your own carpentry and other maintenance staff?

17 A There were a combination for the  
18 convenience of the contractor and for the -- our  
19 convenience and privacy of the Family by virtue of  
20 our staff having access. There were a number of  
21 ceilings and other places that were repaired,  
22 interior finishes that were done in combination,

1 solely by the contractor, or solely by our staff.  
2 And I do not specifically remember who did all of the  
3 finish work. But since I did see it on the  
4 contractor's log, it's obvious the contractor did  
5 some work.

6 Q Right. On the --

7 A They may have done the plaster work and our  
8 staff may have put the finish coat of paint on there.

9 Q Now again, would Mr. Freemyer have more  
10 direct supervisory knowledge regarding this project?

11 A Yes, he would.

12 Q Let me turn now to the main focus of the  
13 reason why we asked you to come here, and as you  
14 probably know, it is the discovery of some documents  
15 in the book room itself. Can you describe for me  
16 generally your recollection of the book room?

17 A The physical layout?

18 Q Yes, the physical layout of the book room.

19 A It's a room that is a rectangle that's  
20 approximately 20 feet by 12, 15 feet. It has two  
21 entrances into the room, one from the hall that we've  
22 already spoken about before, the central corridor,



1 and one from a small hallway which leads -- a hallway  
2 which leads between the first and second -- number 1  
3 and number 2 elevators.

4 You have to enter the book room, as you've  
5 referred to it, and go -- to be able to get into  
6 either the exercise room or a housekeeping area where  
7 there's linen storage and also an ironing board that  
8 the maids use for ironing.

9 Q And they do the actual ironing in the linen  
10 room?

11 A Some of it.

12 Q This back hallway, this other entrance, not  
13 the entrance from the main hallway but this second  
14 entrance to the book room, you said that that leads  
15 to a hallway that connects elevator number 1 and  
16 elevator number 2?

17 A That's correct.

18 Q Who uses that hallway primarily?

19 A Primarily the residence staff.

20 Q And I take it, in addition to the  
21 elevators, there are stairways next to elevator  
22 number 1?

1 A Adjacent to elevator number 1 is the  
2 stairway that goes all the way to the lower level.  
3 There is a door, if you're standing in elevator 1  
4 looking at elevator number 2, there is a door that  
5 has an automatic closer on it that's closed all the  
6 time.

7 So once you go toward the west from that  
8 elevator, there are a series of rooms that belong to  
9 various members of the residence. I say "belong to,"  
10 are used by various members of the residence staff.  
11 The maitre d' has his office there, valets to the  
12 President have an office and work space, the chefs at  
13 the White House. And then that corridor goes back to  
14 the second elevator, where the second elevator  
15 entrance is there are two half -- partial stairways  
16 that go to the outside promenade, but there's no  
17 additional stairway.

18 Q The other stairway that leads only down to  
19 the second floor is not in that corridor?

20 A That's correct.

21 Q Can you describe for me the contents of the  
22 room beyond the physical layout? By that, I mean the



1 furniture in the room, what else is in the room,  
2 bookshelves?

3 A When?

4 Q July and August of 1995.

5 A During that period, it may have had a  
6 number of things in it, because the room had a  
7 changing character. It was used as a partial storage  
8 room. It certainly had bookshelves in it that housed  
9 books of the First Family. There was a number of  
10 tables in there at different times that were put in  
11 by our staff, folding tables.

12 During that period there may have been a  
13 computer in that room, there may have been a small  
14 desk or a table that was used as a desk. There have  
15 been a couple of file cabinets in the room.

16 Q Are there bookshelves lining the walls of  
17 the room?

18 A Bookshelves lining the walls of the room,  
19 yes.

20 Q Let me ask you to take a look at a rough  
21 sketch that we have made up of the book room, and ask  
22 you to study that and see if it comports with your

1 recollection of the contents and layout of the room  
2 at this time; or if it differs from your  
3 recollection, where and how.

4 MR. KRAVITZ: When you say "at this time,"  
5 do you mean now or --

6 BY MR. DINH:

7 Q At this time, July and August of 1995.

8 A Well, the first thing that I see is that  
9 this room, the proportions of the room are  
10 incorrect. It is longer than it is wide. This shows  
11 from -- if I can, the side that's closest to me, as  
12 I'm looking at it, is the eastern side of the room,  
13 and that is a long wall, as opposed to the south and  
14 the north walls being long walls. So the proportions  
15 of the room are incorrect. It is longer north to  
16 south than it is east to west.

17 Q Can you -- this does not have a compass on  
18 it. Can you put which direction is north and south?

19 A Okay.

20 Q Anywhere on there.

21 A The easiest way to do this, I guess, is  
22 this is west, this is north, this is south and this

1 is east (indicating).  
2 Q Great. So the north/south proportion is  
3 the 20 feet wall?  
4 A That's correct, roughly.  
5 Q Roughly. And the east/west proportion is  
6 the --  
7 A 15 or 12.  
8 Q 12 to 15 feet. Other than that, can you  
9 study the layout and the materials in the room.  
10 A What it shows here as the northeast corner  
11 says filing cabinets. There are additional  
12 bookshelves there. The tables in the room, I don't  
13 know what period of time this would be, but there  
14 could have been -- these tables were in various  
15 positions in the room. There may have been one  
16 table, there may have been three tables, I think.  
17 I remember as many as three tables in  
18 there. And they were in various forms in various  
19 periods because this is a room where things were put  
20 and disseminated from this.  
21 Also, the door to the exercise room is  
22 closer to the entrance to the main Hall.

---

1 Q So more east?  
2 A It is more east, that's correct. It's more  
3 up in the corner here.  
4 There is also a second door that is not  
5 shown from the main corridor, there where it says  
6 "two black boxes" --  
7 Q Can you take my pen and draw in that door  
8 for me?  
9 A Sure (indicating).  
10 But that door is closed because there is  
11 usually something in front of that door and it is not  
12 a used entrance.  
13 Q Right, right. Can you draw the approximate  
14 location of where the entrance to the exercise room  
15 is to the main hallway as you stated?  
16 A (Indicating.)  
17 Q Great. You stated that, during this period  
18 in July and August of 1995, there were times that you  
19 have noticed as many as three tables in the room?  
20 A I believe so, yes.  
21 Q Okay. Were these tables of different  
22 sizes?

1       A    We have in our inventory 5-foot, 6-foot and  
2 8-foot folding tables, and any configuration. I  
3 don't make a distinction between the sizes. They're  
4 all the same and if it was a 5-foot or 6-foot or an  
5 8-foot -- there have been times when it depends on  
6 the amount of things that were in this room  
7 determined the size of the tables. Quite frequently  
8 I think we put 8-foot tables in there, but I couldn't  
9 distinguish.

10       The other thing I think needs to be said  
11 here is, these two doors from the main corridor; one  
12 which is blocked and is not a useable door, and the  
13 other door have automatic closers on them. And these  
14 doors remain closed, as does the door adjacent to  
15 elevator number 1, which closes off this area  
16 (indicating).

17       Q    The door adjacent to elevator number 1 is  
18 not a door --

19       A    That looks down to elevator number 2.

20       Q    In the back hallway it is not a door into  
21 this room?

22       A    That's correct.

1       Q    Is there a similar stop, automatic stop  
2 mechanism at the other entrance into the book room,  
3 the entrance into the back hallway?

4       A    No, no.

5       Q    Is that generally -- does that door  
6 generally remain open?

7       A    Yes.

8       Q    Is there a door, an actual physical door,  
9 to the exercise room?

10       A    Yes.

11       Q    Does that have an automatic stopper on it?

12       A    No.

13       Q    Does that generally remain open or closed?

14       A    Generally open.

15       Q    The linen room, is there a door there?

16       A    Yes, there is.

17       Q    Generally open or closed?

18       A    Generally open.

19       Q    But so the only door that is almost  
20 always -- except when it's open and held open -- that  
21 remains closed is the access to the main hallway?

22       A    The two doors that have access to the main

1 hallway have automatic closures on them, and unless  
2 they are physically in use or somebody propped them  
3 open, they are normally closed.

4 Q Now, you said with respect to the tables,  
5 you described them as 5-foot, 6-foot and 8-foot  
6 folding tables. Are they all folding tables, the  
7 5-foot --

8 A The ones that we have in our inventory,  
9 yes.

10 Q Now, when you say folding table, is it like  
11 a card table, is it light, or is it like made out of  
12 oak?

13 A Aluminum. They're aluminum. We do have  
14 some in the inventory that are light plywood that  
15 have legs on them, but they're all relatively light  
16 tables. They're not heavy like the table we're  
17 sitting at.

18 Q Generally the kind of tables the caterers  
19 use that have folding legs and are easily  
20 transportable?

21 A We don't like to think of caterers at the  
22 White House, but yes.

1 (Laughter.)

2 Q Now, in July and August of 1995, to the  
3 best of your recollection, was there a table, either  
4 5-foot, 6-foot or 8-foot in size, in the book room  
5 that contained on it a number of books, memorabilia,  
6 maybe even boxes of materials?

7 A It's seldom that there weren't tables in  
8 there with things on them.

9 Q And that includes the period of July and  
10 August?

11 A Yes.

12 Q Do you have any specific recollection of  
13 seeing such a table in July and August of 1995?

14 A There were tables in there during that  
15 period. You know, as to what day tables went in and  
16 tables went out, I just have no specific  
17 recollection.

18 Q And there were clutters of memorabilia and  
19 books and the like on the table or tables?

20 A From time to time. They would go there and  
21 decisions would be made as to where they would go,  
22 whether they would be going to the archives, whether



1 they would go to a personal office, whether they  
2 would go to a staff person. I mean, decisions  
3 were -- that was where things went.

4 They were spread out, decisions were made  
5 of where they would go; dissemination, I guess would  
6 be the best way to say it, went from that room.

7 Q So it's sort of like a collection and  
8 distribution point for materials?

9 A Yes.

10 Q Decisions would be made. By whom?

11 A This was the Family's personal area. You  
12 know, I -- the President and First Lady, but I never  
13 was in there when they were making a decision that  
14 this goes here and that goes there. Carolyn Huber,  
15 Capricia Marshall -- now we're talking specifically  
16 about the time frames of July and August, of course.

17 They were gone for part of August, so they  
18 certainly wouldn't have been making decisions at that  
19 time because they weren't there.

20 Q Right.

21 A But we've quite infrequently interacted  
22 with the decisionmaking process as to where things

1 would go. We would usually be called upon after the  
2 decision was made as to what pile would go to what  
3 various area.

4 Q Called upon in order to help transport  
5 these materials to various areas?

6 A That's correct.

7 Q And who usually calls upon you? Is it  
8 Ms. Huber or Ms. Marshall?

9 MR. KRAVITZ: You mean relating to stuff in  
10 that room?

11 MR. DINH: Yes.

12 THE WITNESS: Yes.

13 BY MR. DINH:

14 Q In regards to moving it?

15 A Quite frequently it is, yes. And that call  
16 would go to the usher's office, whoever was on duty  
17 would take that call, and as a matter of routine  
18 would ask that somebody be sent to that area.

19 MR. KRAVITZ: Is this a good time to take a  
20 five-, 10-minute break?

21 MR. DINH: Sure. That would be fine.

22 (Recess.)

1 (Walters Exhibit 1 identified.)

2 MR. KRAVITZ: We have -- while we were off  
3 the record, we have marked as Exhibit Number 1 this  
4 drawing that Mr. Walters has been testifying about  
5 and marking on.

6 Could you read back the last question and  
7 answer, please.

8 (The reporter read the record as requested.)

9 BY MR. DINH:

10 Q We were talking earlier about -- before we  
11 went off the record -- about the calls that either  
12 Ms. Huber or Ms. Marshall would place to your office  
13 in order to seek assistance to move materials from  
14 the book room to the various places that they were to  
15 be moved to.

16 Do you recall any such calls for assistance  
17 either at the end of July or beginning of August 1995  
18 from Ms. Huber?

19 A Nothing that would have stuck out in my  
20 mind. It's a rather routine set of circumstances.  
21 Also, you referred to a call; quite frequently it  
22 happens in person. She may stop by the office and

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1 say I have a box, a stack of books that need to be  
2 taken here or there. Could somebody please move them  
3 for me.

4 So it doesn't necessarily have to be a  
5 telephone call.

6 Q Does she do this on a weekly basis?

7 A It could be weekly, could be daily. It  
8 could be multiple times a day. It would depend on  
9 the activity level.

10 Q As needed by her?

11 A That's correct.

12 Q And you don't specifically recall any  
13 particular --

14 A There's nothing that sticks out in my mind.

15 Q How about a call from Ms. Huber to request  
16 something to be moved from the book room to her  
17 office, would that --

18 A Rather routine, falls in the same category.

19 Q And nothing sticks out in your mind with  
20 respect to this time period?

21 A No.

22 Q Within the last week, did somebody in the

1 White House counsel's office contact you to ask you  
2 the same question with respect to people who may have  
3 moved Ms. Huber's materials from the book room to her  
4 office?

5 A No. I think the only contact I had was  
6 about this meeting today.

7 Q Who would be the persons whom you send to  
8 help Ms. Huber? Who would be the normal persons to  
9 help move materials from the book room to, say, her  
10 office?

11 A Routinely it would be our operations crew  
12 who move furniture, who set up each day for the  
13 tours. They're the ones that are primarily  
14 responsible for moving things. Were they otherwise  
15 occupied, we could have called on any number of  
16 people on the staff, on the residence staff to see  
17 that the tour was done. And it also would be  
18 determined by the time of the day. If it was 6:00 in  
19 the evening and the operations staff had departed for  
20 the day, they would probably call on the engineers,  
21 the operating engineers, the people who operate the  
22 HVAC equipment.

1 Q How many people are in the operations  
2 staff?

3 A Seven.

4 Q And how many engineers are there?

5 A 10.

6 Q Do you know if the White House counsel's  
7 office asked one of your assistants to ascertain  
8 whether any of these people recall helping Ms. Huber  
9 move something from the book room to her office in  
10 July or August of 1995?

11 A Not to my knowledge.

12 Q And I take it, just to close out the loop,  
13 that you do not know, if Ms. Huber had requested such  
14 assistance to help move boxes from the book room to  
15 her office in July or August of 1995, you would not  
16 know who helped her?

17 A It may have been me. I just don't --  
18 unless there was something that called it to mind to  
19 force me to remember it, because it was something  
20 that happens so routinely.

21 Q None of these people came forward to you  
22 and said oh, I helped Ms. Huber move some boxes in

1 that particular time period, within the last --  
2 nobody came to you since January 4, 1996 to tell you  
3 this, nobody on your staff?

4 A No.

5 MR. KRAVITZ: Just so you know, January 4,  
6 1996 is the day that Ms. Huber has testified she  
7 recognized these records in her office.

8 THE WITNESS: Just going back, if I can,  
9 you asked me a few minutes ago about if the counsel's  
10 office asked me if any of my staff moved -- had a  
11 specific recollection, and I'm sorry to say, they  
12 did. I just didn't remember that.

13 BY MR. DINH:

14 Q Okay.

15 A I received a call -- and I don't remember  
16 what specific day it was -- about the operations  
17 staff and I did specifically ask the members of the  
18 operations staff and the members of the usher's  
19 office if they specifically remembered moving things  
20 for Mrs. Huber during that July and August period,  
21 and they all said yes, but it happened so routinely  
22 that nothing sticks out in our mind. It could have

1 been July 1, it could have been August 20, it could  
2 have been July 31. It was something that just  
3 happened routinely and nothing stuck out in anybody's  
4 mind.

5 So I correct myself. I did get that call.  
6 But you said within the last week and I just don't  
7 remember whether that occurred in six days, seven  
8 days.

9 MR. DINH: That's fine.

10 MR. KRAVITZ: And there's no record --  
11 there are no records kept when ushers assist someone  
12 like Ms. Huber in moving something?

13 THE WITNESS: No, there are not.

14 BY MR. DINH:

15 Q So the answer you got back was that no  
16 specific recollection of any one particular time that  
17 they may have helped Ms. Huber move boxes from the  
18 book room to her office, although it may very well  
19 have happened because it was such a matter of  
20 routine?

21 A That's correct. And I asked that  
22 specifically of the operations section and my staff,



1 the usher's office.

2 Q Right, the seven persons in the operations  
3 section?

4 A That group plus the people in the usher's  
5 office, to include one person who is not an assistant  
6 usher but who from time to time may fill in in the  
7 usher's office if we have to get up and go out and  
8 take on some other activities. I asked that  
9 individual also.

10 Q Great. And these are the universe of  
11 people who would normally or routinely --

12 A These are people who on a routine basis  
13 would do something like this.

14 Q Great. And needless to say, if you come  
15 across any information, if anybody tells you  
16 subsequent to this deposition that they indeed have a  
17 specific recollection of such assistance, I would ask  
18 you to contact either me or Mr. Kravitz.

19 A Certainly.

20 Q Thank you. Let me refer you back now to  
21 Deposition Exhibit Walters 1, which is the layout of  
22 the book room which we had earlier asked you to mark

1 upon and make alterations on.

2 I take it, then, that any person who wishes  
3 to use the exercise room would have to walk through  
4 the book room?

5 A That's correct.

6 Q Approximately how far apart are the  
7 entrances to the book room from the main hallway and  
8 the egress from the book room into the exercise room?

9 A I'm sorry, state that again?

10 Q Approximately what is the distance between  
11 the door to the main hallway and the door to the  
12 exercise room?

13 A Approximately 8 feet.

14 Q 8 feet. And they are again kitty-corner as  
15 you have described it earlier?

16 A That's correct.

17 Q So one would just open up the door -- if  
18 one wants to go to the exercise room, one would just  
19 simply open the door into the book room and then walk  
20 about 8 feet to the exercise room?

21 A That's right; approximately two strides,  
22 yes. Unless they came in the other door.

- 1 Q Unless they came in the other door, and the  
2 primary users of the other door, you testified  
3 earlier, were the executive residence staff?  
4 A That's correct.  
5 Q The guests would not enter through the  
6 other door?  
7 A Not under normal circumstances.  
8 Q Have you ever seen a guest enter through  
9 the back hallway and elevator?  
10 A I've never seen a guest enter through the  
11 back hallway, no.  
12 Q So it's safe to say if a guest wants to use  
13 the exercise room, he or she would just walk two  
14 strides from the main hallway to the exercise room?  
15 A That's correct.  
16 Q And likewise for the President or First  
17 Lady?  
18 A That's correct.  
19 Q Who else uses the exercise room that you've  
20 observed?  
21 A That I have observed?  
22 Q Yes.
- 

- 1 MR. KRAVITZ: What time period?  
2 BY MR. DINH:  
3 Q Let's say within the last year, who uses  
4 it?  
5 A That I personally observed, it has only  
6 been either the President or the First Lady.  
7 Q Do you know anybody else who uses that  
8 exercise room on a regular basis?  
9 A I do know that some house guests, because  
10 I've been told by some of the staff that some of the  
11 house guests were in there, and I believe  
12 Ms. Marshall, Ms. Marshall has used it on occasion,  
13 but I didn't see any of those individuals in there.  
14 By virtue of needing access to the room for cleaning  
15 and that's the way I become aware of other people  
16 being in there.  
17 Q So it would be the people who would use --  
18 the universe of people who uses the exercise room  
19 with the First Lady, the President, some guests and  
20 Ms. Marshall?  
21 A Yes, to the best of my knowledge.  
22 Q To the best of your knowledge, that's all I

1 can ask.

2 What about to the linen room? You  
3 testified that some of the housekeeping staff uses  
4 that in order to do some ironing work.

5 A Oh, there's considerable amount of access  
6 into that linen room. It's not just the housekeeping  
7 staff because that room also houses table cloths, so  
8 it could have been any of the food and beverage  
9 service staff, the butlers, the maitre d', the  
10 executive housekeeper, the florists who may have the  
11 responsibility for retrieving cloths, the maids, any  
12 of the maids who may have to do ironing; the  
13 housekeeping staff in general.

14 Q Approximately -- I don't want you to go  
15 down the list of your employees and positions, but  
16 approximately how many people is that universe?

17 A The number is somewhere 25, 28, although I  
18 should add that there would be reason for other staff  
19 members to occasionally go in there.

20 Q Understandably.

21 A Operations staff to move something,  
22 engineers to check on the heat and air conditioning

1 in the room, so -- but just on a routine basis, the  
2 kinds of people that I've identified would be the  
3 ones that would go in there.

4 Q Okay. Now, let me move around the room a  
5 little bit more and move to the other entrance into  
6 the book room. That is the entrance which we have  
7 labeled as the entrance from the back hallway and  
8 elevator; that is, elevator number 2.

9 A Yes.

10 Q That elevator and hallway you've testified  
11 earlier is used primarily by the executive residence  
12 staff?

13 A That's correct.

14 Q All members of the executive residence  
15 staff, or is it mostly housecleaning and butlers, or  
16 do all 88 people generally use that service elevator?

17 A If they have cause to be on the third  
18 floor, that's principally the way that they would get  
19 there, would be to use the number 2 elevator.  
20 Certainly anybody having reason to interact with the  
21 housekeeping staff would use that elevator and that  
22 hallway.

1 I should note that the way the diagram is  
2 shown here is not correct, and I didn't point this  
3 out earlier. The hallway appears from this diagram  
4 to come down and go directly into the room, and then  
5 there's a bookcase and a closet that is shown here.  
6 Actually there are -- the closet is in one, and the  
7 hallway is adjacent, or on the north side of that.

8 Q So can you just draw that as you would  
9 think it?

10 A If I can point out, this wall goes over,  
11 and therefore, the hallway to the elevator, they're  
12 out here.

13 Q I see. So the door is here (indicating)?

14 A The door is there.

15 Q There's a little bit of like a foyer or  
16 whatever it is, a little bit of a dead space right  
17 there?

18 A Not really. This closet area kind of dead  
19 ends into this and the doorway is in the middle of  
20 that.

21 Q I see, I see. Now, is there another way  
22 from elevator number 2 for the executive residence

1 staff to gain access to the main hallway, or is  
2 traversing through the book room the primary way a  
3 person would go from the back hallway and elevator  
4 number 2 to the main hallway?

5 A No, they would very unlikely go through  
6 what you referred to as the book room. They would go  
7 from elevator number 2 down the hallway, open the  
8 door outside of elevator number 1 and enter into the  
9 central corridor via that hallway and not pass  
10 through the book room.

11 Q Right. And that door that you were talking  
12 about is that automatic shutting door that separates  
13 the corridor between elevator number 1 and elevator  
14 number 2?

15 A Correct.

16 Q And this is not a primary shortcut or  
17 something like that for executive staff members to  
18 use?

19 A Once again, dealing with the privacy of the  
20 Family, since that's the entrance into the exercise  
21 room, we would encourage people not to go through  
22 there; to use the corridor, the hallway.



1 If I can go one step further in  
2 explanation, in fact, if the elevator is at the end  
3 of that hallway, north of that elevator is the  
4 staircase, and around the periphery of that staircase  
5 is an entrance into the linen room. And we would  
6 encourage the staff to not even traverse the center  
7 corridor, the main hall.

8 They would come from elevator number 2 down  
9 the small hallway, open the door, walk out into the  
10 elevator landing, then turn to their left, or north,  
11 walk out into the stair well landing, walk around the  
12 stairs to get out to the area where they would --  
13 what we refer to as the linen room, where we have the  
14 majority of the household linens.

15 Q So just so I understand it, this convoluted  
16 process that you just described to me basically, the  
17 policy behind it is that you want the staff to remain  
18 outside of the private area of the President and  
19 First Lady's residence as much as possible?

20 A At all times we try and preserve their  
21 privacy.

22 Q Unless there's a specific reason to enter

1 that space?

2 A That's correct.

3 Q Is the book room part of that space?

4 A Which space?

5 Q Of the private space that the staff is  
6 encouraged to remain out of unless there's specific  
7 reason to be in it.

8 A Yes.

9 Q I'm sorry, and you were referring to the  
10 linen room. Is that the same linen room as we're  
11 talking about here?

12 A No, it is a smaller linen closet, as it  
13 were. It is a room where table linens are stored as  
14 well as an ironing room. The major linen room for  
15 the White House is over the north portico, which is  
16 somewhat removed from this area.

17 Q Now, on -- you've testified --

18 MR. KRAVITZ: I just want to make sure that  
19 the record is clear what we're talking about.

20 Correct me if I'm wrong. Is what you just said that  
21 what's marked here "linen room" on Exhibit Number 1  
22 is in fact a linen closet, or is that -- am I wrong

1 about that?

2 THE WITNESS: He said closet and I  
3 corrected him to say that it is in fact a small room  
4 that holds table linens, as well as an ironing board,  
5 and there's considerable amount of ironing that's  
6 done in there.

7 There is another room that is referred to  
8 as the linen room, where all the house -- majority of  
9 the housekeeping linens are maintained, bed linens,  
10 the towels and so forth.

11 MR. KRAVITZ: Which were you referring to  
12 when you were describing the back way into the linen  
13 room?

14 THE WITNESS: To the major linen room.

15 BY MR. DINH:

16 Q The small room that has some table  
17 linens -- sorry, but I just want to clarify this.  
18 The small room right off the book room that has some  
19 table linens in it, do you have to go through the  
20 book room to get into that or is there another way to  
21 get in there?

22 A No, you have to go through the book room to

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1 get to the table linen room, if I could change the  
2 nomenclature on here.

3 Q Why don't we do this, to the table linen  
4 room.

5 Are there table linens in the main linen  
6 room?

7 A Occasionally.

8 Q On a daily basis -- you've testified that  
9 there are approximately 25 to 28 persons who would  
10 have reason to go into the table linen room that is  
11 off the book room. On a daily basis, how many of  
12 these people enter the table linen room?

13 A It would be according to the activities,  
14 but just as a general number, it would be fewer than  
15 six but could be more according to the activities.

16 Q Right, because you obviously have a state  
17 dinner, you would have all 28 running in and out  
18 trying to get the --

19 A That's correct.

20 MR. KRAVITZ: There was a lot of traffic in  
21 the book room yesterday. Didn't you say there was a  
22 state dinner last night?

1 THE WITNESS: I think we rented the  
2 tablecloths yesterday, so that may not have been the  
3 case.

4 (Laughter.)

5 BY MR. DINH:

6 Q Now, let me ask you whether there was a  
7 state dinner in the period of July and August of  
8 1995, if you can recall.

9 A If you don't mind, I'll check my calendar.

10 Q No, please.

11 A July and August of '95.

12 (Witness reviewed the document.)

13 Yes.

14 Q Would that have been the state dinner for  
15 the South Korean president?

16 A That's correct.

17 Q Do you recall -- I know this is stretching  
18 it a bit -- but do you recall whether you rented  
19 linen for that state dinner or whether you used the  
20 House linen?

21 A I don't specifically recall. It was a  
22 large state dinner. We had a tent in the West

1 Garden, so I just don't have a specific recollection  
2 of whether we did or did not.

3 Q When do you rent and when do you use your  
4 own, as a general rule? What comes into that  
5 decision?

6 A A decision is made by the social office at  
7 the White House.

8 Q You don't make that decision?

9 A No.

10 Q Does it depend on the limited capacity of  
11 the house linens; that is, you only have a certain  
12 number of linens?

13 A Capacity, quality, color. There are  
14 numerous reasons.

15 MR. KRAVITZ: Did you say when that state  
16 dinner was?

17 THE WITNESS: I did not.

18 BY MR. DINH:

19 Q Can you tell me?

20 A July 27 of '95. There were numerous other  
21 events during the month of July, some of which were  
22 large events, that could have caused extra activity

1 in the table linen room, but the state dinner  
2 specifically was on the 27th of July.

3 Q Now, we talked a little bit earlier about  
4 the very careful procedures that you've set forth  
5 with respect to moving records or books for outside  
6 contractors, within the White House. That is, if  
7 they find a record or book or any other material in  
8 their space and they need it to be moved, they  
9 wouldn't move it. They would have to contact a  
10 member of your staff or their escort in order to get  
11 it moved?

12 A That is the procedure, that's correct.

13 Q Do you have similar instructions or  
14 procedures or understandings with respect to your  
15 staff, the 88 people in your staff, regarding moving,  
16 handling of records or books or other materials in  
17 the White House?

18 A Routinely they would not move anything  
19 unless they were directed to do so, unless they were  
20 moving it to clean adjacent to it, and in that case  
21 they would place it back where they found it.

22 Q Right. There would be no reason for

1 anybody in your staff, and specifically anybody in  
2 this 28-person universe who have access to the linen  
3 room, to, say, remove or transport or place any  
4 materials within the book room?

5 A Not without direction.

6 Q So is it safe to say that, even though they  
7 had access of necessity to the book room, in order to  
8 gain entry or exit from the linen room, their access  
9 would be limited to traversing the distance of the  
10 main hallway and the linen room?

11 A Well, they also had responsibility for  
12 cleaning part of the residence, pick up the trash  
13 which they did on a routine basis morning and  
14 evening. So that we had routine things that we did  
15 in the room, but in most cases they would just be  
16 traversing the room if they were going to the table  
17 linen room.

18 Q Right. You're highly confident in your  
19 staff regarding their privacy and confidentiality --  
20 regarding your privacy and confidentiality concerns?

21 A Yes.

22 Q If you lose that confidence, is that cause



1 for termination?

2 A It can be.

3 Q And I take it you constantly are monitoring  
4 the level -- if there is cause for you to believe  
5 that the duty of confidentiality and protection of  
6 the First Family's privacy has been breached by a  
7 member of your staff, you would monitor that and try  
8 to see who was responsible?

9 A To the best of my ability, yes.

10 Q That is a part of your function as a  
11 supervisor, as a chief usher of the White House?

12 A That's correct.

13 Q Given that and given your knowledge of the  
14 procedures and the usual activities of your -- of the  
15 28 persons who have access to the linen room, would  
16 you say it likely that one of them could have placed  
17 a record or a sheaf of papers or other documents in  
18 the book room?

19 A Not without direction.

20 Q Would you say it would be highly unlikely  
21 that they would do so without direction?

22 A Yes, it would be highly unlikely.

1 Q As a matter of fact, unprofessional, and in  
2 certain circumstances, cause for termination?

3 A Yes.

4 Q Do you recall at any time in July or August  
5 of 1995 any specific request made to you or to  
6 another member of your staff that you've since come  
7 to be aware of, of anybody moving -- placing  
8 records -- no, placing -- strike that.

9 Do members of your staff from time to time  
10 get requests to place things in the book room?

11 A They may receive requests to place  
12 something in there, if they have been asked to  
13 transport it from another location in the residence  
14 to that area, yes.

15 Q Is it as routine as the request to remove  
16 things from the book room as you've testified  
17 earlier?

18 A Yes.

19 Q Actually, do you have occasion in your  
20 general daily duties to pass through the book room?

21 A From time to time; not every day.

22 Q Did you do so in July and August of 1995?

1 A Yes.

2 Q During this period between July and August  
3 of 1995, let me direct your attention to what I will  
4 identify as DKSX 028928 through DKSX 029043 and ask  
5 you whether you have seen these materials at any time  
6 in that period.

7 A July and August of 1995?

8 Q Yes.

9 A I have not.

10 Q Have you subsequently seen these records?

11 A Yes.

12 Q When was that?

13 A Before the Grand Jury.

14 Q It was shown to you at the Grand Jury like  
15 I am doing right now?

16 A Yes, that's correct.

17 Q Other than that time, did you see --

18 A Now, I should say that there are documents  
19 like that. I didn't go through all those so I don't  
20 know if that is that specifically.

21 MR. KRAVITZ: You mean it was documents  
22 like that that you were shown in the Grand Jury?

1 THE WITNESS: That's correct.

2 BY MR. DINH:

3 Q And by documents like that, you mean a  
4 stack of papers approximately 1 inch thick, measuring  
5 11- -- approximately 11-by-17, which are full copies  
6 of what seems to be computer printouts?

7 A Yes.

8 Q And did you see any other documents like  
9 that, that is that fits that description, prior to  
10 your Grand Jury testimony?

11 A I did not.

12 MR. KRAVITZ: You mean in the book room?

13 THE WITNESS: In the book room in '95 in  
14 July and August?

15 BY MR. DINH:

16 Q Yes.

17 A No.

18 Q How about anywhere else in the White House  
19 in July --

20 A I did not.

21 Q How about anywhere in the White House since  
22 July of 1995 to the present?

1       A    I may have seen some computer -- copies of  
2 computer printouts, but I didn't have any reason to  
3 look at them. Because of the National Park Service  
4 that I work with produces computer printouts of  
5 payroll records, but nothing like this, no.

6       Q    And since Ms. Huber's discovery of -- and  
7 let me just tell you she discovered records like this  
8 on January 4, 1996 in her office and it became public  
9 several days later, January 6, 1996.

10       Since that time, have you had any  
11 conversations with members of your staff to determine  
12 whether they saw anything like this, documents that  
13 fit this description in the book room during the  
14 relevant period?

15       A    I didn't ask them about specific documents,  
16 but as I related earlier, I asked the staff about  
17 whether they had any recollection of taking anything  
18 in particular -- I used the word "files" or "paper  
19 files," I believe, in that conversation, and none of  
20 them had any recollection.

21       Q    Right. This was the conversation that took  
22 place approximately a week or so ago?

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1       A    Yes, that's correct.

2       Q    Other than that conversation, did you have  
3 any other discussions with your staff regarding --  
4 after the revelation that Ms. Huber had found records  
5 like those, did you talk to members of your staff  
6 about this?

7       A    I'm sorry, could you say that again?

8       Q    I'm sorry, that was very convoluted and I  
9 apologize for that.

10       Other than the inquiries you testified to  
11 earlier of the operations staff and of your ushers in  
12 the past week, other than that, have you had any  
13 other discussions with your staff relating to the  
14 circumstances of the discovery or movement or  
15 handling of what we would refer to as the Rose Law  
16 Firm billing records?

17       A    No.

18       Q    And I would represent to you that these are  
19 the "Rose Law Firm billing records," and you're  
20 familiar with them in the sense -- the general  
21 information regarding them?

22       A    In the newspaper, references.

1 Q Aside from newspaper references, have you  
2 heard any discussions in the White House of "the Rose  
3 Law Firm billing records"?

4 A I'm sure at some point in the usher's  
5 office, as we read the morning newspaper, there may  
6 have been some conversation. But I don't remember  
7 specific conversation, nor did I ask anybody whether  
8 they were specifically aware of the documents.

9 Q Right. Did you glean any additional  
10 information from these conversations or discussions?

11 A I did not.

12 Q Other than the newspaper, okay.

13 And you mentioned to me earlier that you  
14 had talked to a member of the White House counsel  
15 regarding your testimony here today. Can you tell me  
16 the nature of that conversation?

17 A I didn't talk to them about my testimony  
18 here today. To set up the testimony here today, they  
19 gave me the name of the individual to contact.

20 Q Simply just the fact that you have to  
21 contact somebody in order to arrange for a  
22 deposition?

1 A That's correct.

2 Q You did not discuss the substance of your  
3 testimony here today?

4 A I did not.

5 Q Now, I know you testified in general that  
6 you have not seen records like this in the book room  
7 during the relevant period, that is July and August  
8 of 1995, but let me just ask some more questions just  
9 for the sake of thoroughness. Did you see anybody  
10 carry records like this into or out of the book room  
11 during the relevant period?

12 A No.

13 Q Ever since then, since July 1995?

14 A No.

15 Q Did you see anybody carry records like this  
16 at any other place in the executive residence of the  
17 White House?

18 A No.

19 Q And I would also ask you -- I had also  
20 asked you a general question earlier regarding the  
21 expected and the normal behavior of your staff,  
22 specifically the members of the staff that have



1 access to the linen room.

2 Let me ask that you specifically. Would  
3 you consider it still highly unlikely that any member  
4 of your staff would, without direction from another  
5 member of the White House staff, carry records like  
6 these and place them into the book room?

7 A Without direction, they would not.

8 Q And no member of your staff, I take it from  
9 your earlier answers, had told you that they did that  
10 at somebody else's instructions?

11 A That's correct.

12 Q That they carried something like this  
13 into --

14 A Nobody has told me, that's correct.

15 Q And let me ask that question with respect  
16 to the construction workers who, if they, presumably  
17 according to procedure, see something like this lying  
18 around in a part of the White House that they need  
19 access to, would not move it but would contact a  
20 member of your staff in order to request that it be  
21 moved; correct?

22 A That's correct.

1 Q And you do not have any knowledge of any  
2 such request or of any such movement of records like  
3 these during --

4 A That's correct, by the contractors during  
5 that period, that's correct.

6 Q How about by a member of your staff?

7 A No.

8 Q During the relevant period of July and  
9 August 1995, since then?

10 A No.

11 Q Incidentally, do you know the name of the  
12 HVAC contractor?

13 A The general contractor?

14 Q Yes.

15 A It's on the forms that you showed me  
16 earlier. The specific name is -- it gets -- I forget  
17 the specific name of the contractor.

18 Q With respect to the guests in the White  
19 House, you testified earlier that you would get the  
20 White House staff -- or the First Lady's staff or  
21 President's staff would make the scheduling and  
22 arrangements for people to come and stay, and then

1 they would give you a list of guests?  
2 A Correct.  
3 Q Do you make efforts to identify who these  
4 guests are?  
5 A I'm not sure what you mean by "identify."  
6 Q Like do you ask, if you get a name that  
7 you're unfamiliar with, do you ask who is this person  
8 to the White House --  
9 A That is none of my business.  
10 Q And you do not ask that?  
11 A No.  
12 Q It does not matter to you, with respect to  
13 your service of the guests, who they are?  
14 A No.  
15 Q It only matters that they are -- the  
16 President and First Lady have extended them an  
17 invitation to stay at the residence?  
18 A That's exactly right.  
19 Q So other than what you would know of a  
20 guest, either through public information or through  
21 other information that you have, you would not have  
22 any other information as to who they are or why they

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1 are staying at the residence?  
2 A No.  
3 MR. DINH: Off the record.  
4 (Discussion off the record.)  
5 BY MR. DINH:  
6 Q I mentioned Ms. Susan Thomases earlier. Do  
7 you recall seeing Ms. Susan Thomases in the White  
8 House residence either in July or August of last  
9 year, 1995?  
10 MR. KRAVITZ: Have we established that  
11 Mr. Walters knows who Ms. Thomases is?  
12 BY MR. DINH:  
13 Q Do you know who Ms. Susan Thomases is?  
14 A I do.  
15 Q Had you seen her in July and August of  
16 1995?  
17 A I don't have a specific recollection of her  
18 being there during that time. She could have been  
19 and I just may not have interacted with her. There  
20 are times when she comes and does not go above the  
21 first floor, so I may have talked to her during that  
22 period of time by virtue of the fact that she was

1 there as a guest at a reception that did not require  
2 her to go above, and therefore she wouldn't show on  
3 the log, she would not be of any recollection.

4 If I went through the logs, I could  
5 certainly tell whether or not she was there, but I  
6 have no specific recollection of interacting with her  
7 during that specific period of time.

8 Q Right. We can go through the logs  
9 ourselves and I won't ask you to do that. Is she a  
10 frequent visitor to the White House?

11 MR. KRAVITZ: At what time period?

12 BY MR. DINH:

13 Q In the last year.

14 A Infrequent.

15 Q Infrequent, okay. Less infrequent -- less  
16 frequently than she was, let's say, in 1992?

17 A '92?

18 Q Yes. I mean 1993; I mean 1993.

19 A Yes.

20 Q And you stated that if she went into the  
21 White House residence, executive quarters, that is  
22 the second and third floor of the White House

1 residence, her movements would be recorded in your  
2 log?

3 A Her movements would be recorded if she went  
4 above the first floor level. What she does on the  
5 second and third floor is, once again, in the privacy  
6 of the Family's area and we would not have any  
7 recording of anything like that.

8 Q Just simply entries and exits into that  
9 second and third floor area?

10 A Unless we had some cause to -- say, a  
11 meeting moved -- or a conversation moved from one  
12 area to another and we had to provide food and  
13 beverage in another area, it might show that they  
14 started off talking in the West Hall and went to the  
15 third floor.

16 MR. KRAVITZ: And just so the record is  
17 accurate, Ms. Thomases's movements to the second  
18 floor or third floor would appear on the logs unless  
19 one of those reasons you talked about previously  
20 occurred, which might result in her movement to the  
21 second or third floor not being in the logs?

22 THE WITNESS: That's correct.

1 BY MR. DINH:

2 Q Just again to round out the record, what --  
3 can you state for me specifically when would her  
4 movements not be recorded on the log -- when is an  
5 occasion when Ms. Thomases would enter the second or  
6 third floor without that entry being recorded?

7 A As an example -- and I don't know whether  
8 this specifically happened or not -- but an example  
9 would be if the duty usher was away from the desk  
10 doing business in some other part of the residence  
11 and Carolyn Huber, Capricia Marshall escorted her up  
12 past the police officer, then we wouldn't have  
13 knowledge of that so it wouldn't show up in the  
14 usher's log.

15 Q Right. Other than these isolated  
16 instances, which obviously can always happen because  
17 the duty officer has other tasks to attend to, other  
18 than these isolated incidences, are there other  
19 occasions when her entry would not be recorded? And  
20 by which I mean, if she was walking up with the First  
21 Lady, would that entry of both be recorded?

22 A Under normal procedure, yes, it would be

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1 recorded. And you asked earlier about another  
2 example or another way in which it wouldn't be  
3 recorded, and that's simple forgetfulness of the  
4 usher on duty, not putting it in the log, but the  
5 normal procedure would call for that individual to be  
6 logged.

7 MR. KRAVITZ: If one of the duty ushers  
8 just hypothetically did not know who Susan Thomases  
9 was and Susan Thomases walked up to the second floor,  
10 would that not appear in the log?

11 THE WITNESS: By herself? She would be  
12 challenged by the police officers and by the duty  
13 usher.

14 MR. KRAVITZ: Let's say if she went up with  
15 Mrs. Clinton but the duty officer didn't know who it  
16 was.

17 THE WITNESS: The duty usher?

18 MR. KRAVITZ: I'm sorry, the duty usher.

19 THE WITNESS: Probably would -- when he  
20 checked, when he found out that Mrs. Clinton was at  
21 the second floor, he would probably ask the police  
22 officer what time did Mrs. Clinton go to the second



1 floor -- in which case there may be a conversation  
2 which would indicate, and she had somebody with her  
3 and identify that person.

4 BY MR. DINH:

5 Q And the Secret Service --

6 A If the person was known to the police  
7 officer, because there are times when the police  
8 officers do not know the names of the individuals.

9 Q And would they challenge that individual if  
10 he or she was with the First Lady?

11 A No.

12 Q So it's presumed that whoever is with the  
13 First Lady would have access?

14 A Yes. As a guest.

15 Q A rather safe assumption, I think.

16 MR. KRAVITZ: Off the record.

17 (Discussion off the record.)

18 BY MR. DINH:

19 Q Back on the record.

20 If we could at this time take a brief  
21 break, and I will ask you to do what I referred to  
22 earlier; that is, I am going to hand you records that

1 you have previously identified as the daily  
2 construction logs. And let me represent to you that  
3 these logs were produced to us by the White House and  
4 they encompass the period from July 20, 1995 through  
5 August 14, 1995, the dates which I am interested in.

6 And I would ask you to go through these  
7 briefly and to the extent that you -- and we'll take  
8 a break for you to study them and make whatever notes  
9 that you need to make. And if you could, I would  
10 like you to focus on a couple of areas with respect  
11 to these construction logs.

12 One is the exact -- to the extent that you  
13 can identify through these records, the exact dates  
14 that the work on the closet in the First Lady's  
15 office was conducted, and whether they were in this  
16 period when it was started and when it was completed;  
17 to the extent that you can, the dates that the work  
18 on the -- the primary work in the exercise room was  
19 performed during this period with respect to the HVAC  
20 system.

21 A You say "primary work in the exercise  
22 room," there is ongoing -- there was not a period

1 where there was specifically work done in the  
2 exercise room. That was an access point for work  
3 that was done under the promenade, the walkway  
4 outside.

5 Q Okay. So there's a lot of work still going  
6 on under the promenade?

7 A That's correct.

8 Q And this work, I take it, was continuing  
9 through July and August 1995 also?

10 A That's correct.

11 Q Let me just -- referring to this access  
12 point itself, let me just check to see if we're on  
13 the same page. Does the gaining of access to this  
14 point, did it require the moving of the TV and the  
15 videotape player in the exercise room?

16 A Yes.

17 Q We are on the same page. Do you remember  
18 approximately when the TV and VCR were moved? That  
19 would probably be at the beginning of the  
20 construction period.

21 A Moved out for work to proceed?

22 Q Right.

1 A Moved back when the work was completed,  
2 moved out for the next day for work to proceed,  
3 because the President and First Lady and their guests  
4 would have been using the exercise area. So the only  
5 time we would have left, moved those pieces for any  
6 extended period of time under normal circumstances  
7 would be when they were not in the residence for an  
8 extended period of time. We would maintain access to  
9 that area for the First Family so that they could use  
10 that room by virtue of moving away when we needed  
11 access and moving back when we were completed for the  
12 day.

13 Q So the TV and VCR are on a cart?

14 A No, in a cabinet.

15 Q So you moved the actual cabinet itself in  
16 and out?

17 A That's correct. I must tell you, by virtue  
18 of your question, you're not going to find references  
19 in there to the office, to the book room, to the best  
20 of my knowledge. I think they are referred to by  
21 room numbers, which are off of blueprints, because  
22 that's the way the contractor operates.

1 Q Do you know the room numbers for the book  
2 room or the office?

3 A I do.

4 Q You do, okay, great. Can you identify the  
5 room number for the office?

6 A 323.

7 Q The room number for the book room?

8 A 319A.

9 Q The room number for the exercise room?

10 A It is a series or was a series of three  
11 rooms, 322, 321 and 320. There was a wall torn down  
12 between 320 and 321 so that is now essentially one  
13 room.

14 MR. KRAVITZ: Which room -- that was the  
15 exercise room?

16 THE WITNESS: The exercise room is not a  
17 single room. It is really a complex of what was four  
18 rooms, a bathroom, room 322, room 321, room 320. The  
19 wall between 320 and 321 was removed, making it one  
20 larger room.

21 BY MR. DINH:

22 Q And you testified earlier that the work on

1 the promenade that requires the access point in the  
2 exercise room was continuing through the period of  
3 July and August 1995?

4 A That's correct.

5 Q So would it be a safe assumption that  
6 construction workers would need to gain access to  
7 that on a daily basis or is the work --

8 A Not necessarily daily, but frequent during  
9 that period.

10 Q More intermittent but nevertheless normal?

11 A Frequent.

12 Q Two or three times a week?

13 A And sometimes more.

14 Q And on those occasions, you would be asked  
15 to move the TV and VCR out of the way so they could  
16 gain the point of access?

17 A The residence staff would be asked to. I  
18 can't remember the last time I was personally asked  
19 to do that.

20 Q A little bit below your pay grade?

21 A Not necessarily. If it needed to be done,  
22 it would be done.

1 Q But rather inefficient use of your  
2 managerial skills.

3 So given the futility of my earlier  
4 question with respect to the exercise room, why don't  
5 we hold that aside. And why don't we ask you to  
6 identify it with respect to the work done in the  
7 office. If you can identify the dates of -- starting  
8 and ending dates, to the extent that you can from  
9 these records, and when the closet was sealed and  
10 when the work began. And also with respect to the  
11 book room itself, you testified earlier that there  
12 may have been some ductwork done in the book room.

13 If you can identify that from these  
14 records, that would be very helpful.

15 A And some ceiling work.

16 Q And then the third aspect is the specific  
17 week worth of ceiling work in order to repair the  
18 damage done when, "the man fell down on  
19 Ms. Marshall." Great.

20 Thank you very much. And why don't we go  
21 off the record and take a quick break.

22 MR. KRAVITZ: Take as much time as you

---

1 need.

2 THE WITNESS: It's not going to take -- 10  
3 minutes will be more than enough.

4 (Recess.)

5 BY MR. DINH:

6 Q You've had time to review these  
7 construction logs?

8 A Yes.

9 Q Can you go ahead and describe what you've  
10 done?

11 A What I have done is I've written down the  
12 document numbers that were on the documents that I  
13 saw and the dates associated with that document  
14 number, and I've identified the various rooms so I  
15 don't know how you want to proceed from here.

16 Q Great. Now, you've got written down --  
17 well, why don't we go ahead and mark your notes  
18 there, if we could, as Exhibit 2 and then I will  
19 provide you a copy so you can take with you, but I  
20 would like a copy also so that we can proceed.

21 (Deposition Exhibit 2 identified.)

22 BY MR. DINH:



1 Q I've made three copies of Exhibit Number 2,  
2 and let me return the originals to you and ask that  
3 the court reporter make that an official part of the  
4 record after we're done, and here's a copy for your  
5 records and one for you, Neil, and one for me.

6 A By way of explanation, if I may, the dates  
7 across the top is the original date you gave me, July  
8 20 through August 14. You asked me some time ago  
9 about the general contractor's name, and looking at  
10 the document, it's "JCM Controls, Incorporated," and  
11 just because it's relevant for me to know the  
12 approximate date the First Family went on vacation.  
13 And I don't have the specific date written in my  
14 personal calendar but I remember it was sometime  
15 around the 19th of August, '95. Whoops. Can't write  
16 on my documents.

17 Q Feel free to make whatever additional  
18 notations you wanted.

19 A I was just going to put '95 on here.

20 Q Oh, that's fine.

21 MR. KRAVITZ: That's helpful.

22 BY MR. DINH:

1 Q And proceeding from the top of your notes,  
2 notations, you identify room 323. Can you remind us  
3 which room that is in the --

4 A Room 323 in the context of the conversation  
5 we've been having has been referred to as the office.

6 Q Great. And I asked you with respect to the  
7 office to identify the times, the dates in which  
8 construction was performed in that office in order to  
9 close down the closet basically in order to make it  
10 into a duct.

11 A We need to go through each one of these  
12 documents, because what I did was write down in going  
13 through the documents the dates that these areas were  
14 specifically identified, the document number and the  
15 date that referenced these activities. The first one  
16 is the 26th of July.

17 Q I'm sorry, the first one with respect to  
18 room 323?

19 A The first date that I have -- that I came  
20 across a document that refers to any of these areas  
21 that we're discussing.

22 Q Let me ask you to proceed from the top of

1 your notes, from room 323 there we're talking now  
2 about the office. The first notation you have under  
3 that is S 020167, and let me -- next to that there's  
4 a date, 8-18. Let me show you that document and can  
5 you describe to me what that says to you.

6 A Under the "status of work" portion of this  
7 daily log of construction, on the left-hand side, one  
8 of the contractors is identified as H&P, for Harrison  
9 and Palmer. As you go across it says "spliced and  
10 terminated wires in buzzer panel" -- whoops. Wrong  
11 document. I have to go down further, I'm sorry.

12 In GCS, in that same "status of work," if  
13 you read across on that line, on GCS, it says "abated  
14 in 323 closet."

15 Q Okay. What does "abated" mean, do you  
16 know?

17 A This is a company that does asbestos  
18 removal, and in this case in that closet evidently  
19 they found, when they started to do some demolition  
20 or they knew beforehand, that there was some  
21 asbestos-containing material or insulation.  
22 Therefore, before they could cut into the space, they

1 would have to do asbestos abatement.

2 Q So it is safe to assume that on the date  
3 referenced here, 8-18, the closet had already been  
4 cleared and work had commenced on that closet?

5 A By reading this, I cannot tell. It's a  
6 possibility the closet could have been emptied  
7 earlier that morning and they started this process in  
8 the afternoon. These documents aren't -- they are  
9 simply a summary of work and quite frequently aren't  
10 that specific.

11 Q Asbestos abatement of a closet would  
12 require the closet to be empty?

13 A Yes.

14 Q Thank you. Go ahead and continue.

15 A Also referenced in 323 it says "during  
16 removal of 323 decon, wallpaper above the door was  
17 torn." That's just a reference. There's nothing  
18 else here that gives any reference to that specific  
19 room.

20 Q Great. So in summary on 8-18 there was  
21 some asbestos abatement of the closet in question in  
22 the office of the First Lady?

1 A Yes, by reading these records and my  
2 interpretation.

3 Q If we can move on now to your second  
4 notation with respect to room 323, you have notated S  
5 020171, 8-20. Let me show you that document and ask  
6 you to give a brief description of the work done on  
7 room 323.

8 A Once again, under GCS, which was the  
9 asbestos abatement subcontractor, it says "took down  
10 323 decon."

11 MR. KRAVITZ: What's decon?

12 THE WITNESS: Decontamination unit.

13 BY MR. DINH:

14 Q That's part of the abatement procedure?

15 A That's part of the abatement procedure.

16 Q They put in a decontamination unit that  
17 basically sort of cleans up the area?

18 A They install a decontamination chamber, if  
19 you will, so that while they're doing the actual  
20 removal, no asbestos is released into free air and  
21 that space is then cleaned, vacuumed by various  
22 apparatus until it's then tested for air cleanliness

1 and free of abatement -- or free of asbestos  
2 material. And then after that air cleaning is done,  
3 then they can take down the decontamination chamber.

4 Q It would be safe to assume that no records  
5 or other documents were contained within the  
6 decontamination unit?

7 A Unless the contractor had to have  
8 blueprints, floor plans or something for their  
9 specific activity that they would have maintained for  
10 themselves.

11 Q And the next notation you have is S 020175,  
12 8-22. I'll show that to you.

13 A I also think it's worth for my own sake at  
14 this point stating that I am just going over these  
15 documents written by somebody else and also during  
16 this period, I wasn't present to even know what the  
17 status of these reports were.

18 Q But your expertise, that is, your knowledge  
19 of interpretation?

20 A I'm just giving you information by what I  
21 know and being involved in this process.

22 Q And the person who would have primary



1 knowledge would be Mr. Freemyer, who was the  
2 supervising person?

3 A Once again, he would have better knowledge  
4 than I do, but he may not have -- he wasn't there  
5 every moment.

6 Q Right.

7 A And the one that has the best knowledge  
8 certainly are those people who did the work and  
9 supervised them doing the work.

10 Q Thank you.

11 MR. KRAVITZ: When you say you weren't  
12 "present," you were on vacation?

13 THE WITNESS: That's correct.

14 MR. KRAVITZ: So you weren't present on the  
15 White House grounds at all during this time period,  
16 the time period for these documents that we're  
17 looking at?

18 THE WITNESS: I was on vacation from -- I  
19 didn't return to work until either the 23rd or the  
20 24th of August.

21 MR. KRAVITZ: And I believe you testified  
22 earlier that you left on the 4th; right?

1 THE WITNESS: That's correct. This is  
2 document 175, the last three, and on here is another  
3 reference to 323, under the name of Callas, and this  
4 is the subcontractor that was doing demolition work,  
5 and at this point it says "demo holes for duct,  
6 second floor. Salon, 319 and 323."

7 So at this point they were -- and it is my  
8 presumption that they were physically now, the  
9 asbestos work had occurred in the closet and now they  
10 were physically cutting through the floor space and  
11 the ceiling to allow -- to make additional space for  
12 ductwork and conduit.

13 BY MR. DINH:

14 Q Great. Actually, before we proceed with  
15 respect to room 323, your first notation with respect  
16 to any work in this room as reflected by these  
17 records was 8-18. That's August 18?

18 A Yes.

19 Q And you reviewed the records. Did you  
20 review -- the records here start on July 5, 1995.  
21 Did you review the records with respect to -- from  
22 July 5 through July 20 also or did you start at July



1 20?

2 A I started at July 5.

3 Q You started at July 5. And this was the  
4 first notation to the best of your ability to --

5 A It's the first time anything called my  
6 attention to room 323.

7 Q Great. And just following through the rest  
8 of your notations there, there is reflection of some  
9 work on 8-23, that is, on document number S 020177,  
10 and then some additional -- again, some additional  
11 work on the same date, 8-23, reflected on document  
12 number S 020191.

13 A I should check that document because it  
14 doesn't seem that we'd have two documents that far  
15 apart with that number on them. I may have put down  
16 an incorrect date.

17 (Witness reviewed the document.)

18 Yes, I did.

19 BY MR. DINH:

20 Q So that would be 8-30?

21 A It is. Should I change --

22 Q Why don't you go ahead and change it on the

1 original.

2 MR. KRAVITZ: Which one is August 30?

3 MR. DINH: 191.

4 THE WITNESS: 191.

5 BY MR. DINH:

6 Q So basically, the import of -- these  
7 records are complete and correct, the import of this  
8 series of notation is that the work on room 323 began  
9 on the 18th of August?

10 A There may have been some preliminary work.  
11 The first reference I believe relates to asbestos  
12 abatement, and there may have been some preliminary  
13 work like taking out shelving, doing some minor  
14 demolition in there. I don't see any notation that  
15 calls that to my attention. And once again, since I  
16 wasn't there, I don't have any recollection.

17 MR. KRAVITZ: And presumably it could have  
18 occurred before July 5 as well, which would not be in  
19 these records?

20 MR. DINH: Presumably.

21 MR. KRAVITZ: You wouldn't know?

22 THE WITNESS: I wouldn't know.

1 BY MR. DINH:

2 Q Presumably. Would it have been likely for  
3 there to have been such a lag in --

4 A We did not start demolition prior to July,  
5 I know, in that closet, because it was in run-up to  
6 getting started for the major work that was going to  
7 go on while the family was on vacation, so I know  
8 that we didn't start before July.

9 Q So because there was no specific notation  
10 of the magic numbers 323 on these various logs, those  
11 are the kind of notations that you said you called  
12 your specific attention to?

13 A Or any other thing on there that would call  
14 my attention to it.

15 Q Let's proceed now to room 319A. Room 319A,  
16 can you identify that room for us again?

17 A Room 319A is what we've been referring  
18 to --

19 MR. KRAVITZ: Wait a second. Did we finish  
20 all the entries for 323?

21 MR. DINH: Yeah. I mean, if you would  
22 like, you can go ahead and go through. I mean, they

---

130

1 fall outside the period for which I'm interested in.

2 MR. KRAVITZ: Okay, fair enough, fair  
3 enough.

4 MR. DINH: So I didn't want to proceed and  
5 I want to make this as expeditious as possible.  
6 Thank you, though.

7 BY MR. DINH:

8 Q Let's proceed to room 319A. And that was  
9 what we've been commonly referring to as the book  
10 room?

11 A That's correct.

12 Q Can you go ahead and make the same process  
13 for me again. The first document that you identified  
14 was S 020123, and that is for 7-26 on that document.

15 A That's correct. And on -- once again,  
16 under the name "Callas" under the "status of work" it  
17 says "patched 319A ceiling and 319 wall," 319 being  
18 the adjacent room which we have called the table  
19 linen room.

20 Q And Callas is a subcontractor?

21 A Is a subcontractor.

22 Q The next notation is S 020135, August 2.

1 I'll show that to you.

2 A Once again under "Callas," the last  
3 notation under "Callas" says "patched 319 ceiling."

4 Q So presumably the continuation of the work  
5 earlier?

6 A I flagged that as partially 319 because  
7 this is probably continuation of the other work and  
8 they just did not add in 319A, but that's a  
9 presumption on my part.

10 Q Now, you have bracketed on the right-hand  
11 side of the page a number of notations. Can you  
12 explain those notations?

13 A I believe I can -- I think very early in  
14 the testimony I said that I remembered someplace  
15 where ductwork went through I thought 319 or 319A,  
16 and those four references there specifically identify  
17 ductwork going through the wall in 319, not 319A.

18 Q That would be the table linen room?

19 A That's correct.

20 Q But in any event, in order to gain access  
21 to that area, one would have to walk through 319A?

22 A That's correct.

1 Q Was this ductwork above the ceiling or in  
2 the walls, do you remember?

3 A It was in the wall space; it was not above  
4 the ceiling. It may have been at ceiling level but  
5 it was --

6 Q Great. Let us now proceed to room 321/0.  
7 Can you again identify that room for us?

8 A That is part of the -- what has been  
9 referred to as the exercise room. As I stated  
10 earlier, it's really a complex of rooms. The wall  
11 between 321 and 320 had been removed so that's why I  
12 have it 321/0.

13 Q And the first one you identify here is S  
14 020123. That's on July 26. I'll hand that to you.

15 A Under "JCM," there's a reference to  
16 installing piping in 305 and in 321 promenade. This  
17 is the first indication that I saw in going through  
18 the documents that indicated a specific entrance into  
19 the 321 promenade. That caused the move, the moving  
20 of the, as you referred to earlier, stereo and TV  
21 unit out of the way which allowed people to get into  
22 that access or crawl space, as I refer to it.

1 Q Now, this is the notation of 7-26, and our  
2 records extend back to July 5. Do you think it  
3 likely that any work had occurred prior to July 5  
4 with respect to 321?

5 A Yes.

6 Q Because this was the access point for the  
7 promenade?

8 A That's correct, one of the access points.  
9 This is specifically for the southwest corner.

10 Q And was there work in the southwest corner  
11 of the promenade prior to July 5 that would have  
12 probably required access through 321?

13 A Yes.

14 Q But within the relevant period, that is,  
15 July 5 on, this is the first entrance into 321?

16 A That called to my attention.

17 Q The next one is the very next day, 7-27 and  
18 that would be S 020125. I'll hand that to you.

19 A Once again, under the general contractor's  
20 name, "JCM," the end of that says "installed piping  
21 in 321 promenade."

22 Q It's a continuation of the same work?

1 A That's correct.

2 Q The next entry is July 28, S 020127. Let  
3 me again show that to you.

4 A Once again under "JCM," the middle entry  
5 says "installed piping in 321 promenade."

6 Q On August 3, the records reflected by S  
7 020137, and I'd ask you to study that again.

8 A It's an entry under "JCM," middle entry  
9 says "installed mains in 321 promenade."

10 Q What are "mains"? Are they the main ducts?

11 A That reference does not give me enough  
12 information to tell you what they're referring to.

13 Q The next entry is August 16 and that's  
14 reflected in S 020163.

15 A I think in my own notes when I was writing  
16 this down, this is really a 319A reference, not a  
17 321. I'm looking to see if there were multiple --  
18 but this is really a 319A reference. Under "H&P"  
19 there, which is Harrison and Palmer, it says "pulled  
20 buzzer out of 319A."

21 Q Do you know to what that is referring?

22 A There is a buzzer system at the White House



1 that dates back to the 1948 to '52 renovation, and as  
2 we go through, as we find units that are no longer  
3 serviceable, we withdraw them. My presumption is  
4 that this is what occurred. And this was on 163 and  
5 it's really a 319A reference.

6 MR. KRAVITZ: I think this says also  
7 "disconnected phone lines to 319A."

8 THE WITNESS: That's correct. Under the  
9 same contractor, "H&P," "disconnected phone lines in  
10 319A."

11 MR. KRAVITZ: And pulled buzzer.

12 BY MR. DINH:

13 Q I take it the H&P subcontractor is the  
14 electrical subcontractor?

15 A It is an electrical subcontractor. And I  
16 do not see a reference in here to 321.

17 Q And the last line of that says "system down  
18 overnight." Do you know what system that is  
19 referring to?

20 A I do not.

21 Q It could be the telephone system or could  
22 be the buzzer system? Is the buzzer system still in

1 service?

2 A Yes, yes. I do not specifically know what  
3 that refers to, the "system down overnight." It may  
4 be the buzzer system, then again it could be the fire  
5 alarm system for that specific area. I just don't  
6 have a specific reference from this note.

7 Q You don't have any sort of electronic  
8 monitoring system in that area, do you?

9 A No.

10 Q Just trying to be thorough.

11 A Other than the fire alarm system.

12 Q And the last notation on 321/0 is August  
13 18, S 020167. I'll hand that to you.

14 A This one is also a 319A reference, I  
15 believe. It also has a reference to 323.

16 Q Yes, that was the first entry.

17 A This was the first entrance on 323 and I  
18 put it in the wrong column. It's two references to  
19 319A.

20 Q Can you go ahead and explain to me what  
21 that reference is?

22 A Under "H&P" again, "splice and terminated

1 wires in buzzer panel in 319A only." This refers to  
2 the previous one we talked about, about pulling the  
3 buzzer out. There's also a reference to "cleaned up  
4 319A." I don't have any idea what that specific  
5 reference is.

6 Q Under the normal procedures, I take it H&P  
7 is not responsible for cleaning up the entire area of  
8 the book room?

9 A The contractors and subcontractors are  
10 responsible for cleaning up their specific -- the  
11 product of their work, if I can, and sometimes that  
12 means waste, but I can't give you what that specific  
13 reference is.

14 Q But it's safe to assume, given your earlier  
15 procedure regarding the handling of materials found  
16 in the White House when the contractor begins work or  
17 during the course of the contractor's work, it is  
18 safe to assume that "cleaned up 319A" does not mean  
19 that the contractor handled or cleaned up or swept  
20 any materials inherent or that was existing in the  
21 book room independent of his own work product?

22 A May have gotten some dust that was there

---

1 previously but no, they would clean up what they  
2 caused.

3 Q So just again to spell it all out, when  
4 they come into a specific area, let's say they have  
5 to work on a particular wall, White House personnel,  
6 your staff, would move materials around that wall to  
7 give them access to that wall, and that particular  
8 area would be worked on by this specific contractor,  
9 then they would patch up the wall or sweep up the  
10 dust caused by their whatever, whatever activity they  
11 did within that limited space that you have cleared  
12 out for them?

13 A That's correct. And I'll be more cautious  
14 making notes in the future.

15 Q You have been very helpful and very careful  
16 and I thank you very much for that.

17 A I think it's one thing at this point, since  
18 we've reached a date that I wrote on here which is  
19 First Family vacation on 8-19-95, it's worth saying  
20 that at this point, the records from here forward in  
21 date and sequence become more generic because as the  
22 family left, we did a lot more work and areas would

1 remain overnight in a condition that we wouldn't  
2 normally leave them.

3 Plus there would be an ongoing status of  
4 work because we increased the workload at that point  
5 instead of a regular eight-hour day, we may have been  
6 working 12 or 16 or 18 hours a day to proceed as  
7 quickly as possible with the process.

8 Q Just again to state on the record, we had  
9 talked earlier regarding the ductwork in 319, and we  
10 had talked about the work inherent in that, that you  
11 have bracketed to the right-hand side of your notes  
12 there. I do not think that we stated for the record  
13 that the notations there indicate that the work was  
14 performed starting 8-21 and ending in 8-30, that is,  
15 August 21, 1995 and ending -- well, our records  
16 reflect the last work done on 8-30 but obviously our  
17 records end at 8-30 so they could have continued  
18 beyond that date?

19 A That's correct.

20 Q You've made additional notations and  
21 corrections on your notes and we will make the  
22 photocopies accordingly and give you a copy of that

---

1 at the end of the deposition. Let me ask you the  
2 following.

3 I am looking through the various logs that  
4 you've testified earlier reflect the logs kept by  
5 your office, that is the White House usher's office  
6 logs of entries into and exits from the White House  
7 executive residence area, that is the second and  
8 third floor of the White House residence. And on  
9 some of these they indicate -- or they suggest that  
10 certain persons entered the second or third floor for  
11 a specific meeting and then leaving together, the  
12 suggestion coming from the coming together and  
13 leaving together or from other sources that is, for  
14 example, there are some places where you say  
15 so-and-so entered for meeting with so-and-so and  
16 then, of course, exiting after the meeting is over.

17 Do your normal course of duties call for  
18 you to attend any of these meetings?

19 A No.

20 Q Do you usually -- do you have occasion to  
21 witness such meetings?

22 A I have meetings on the second floor with



1 the President or the First Lady, or contractors if  
2 that is necessary, but that's upon request and it's  
3 an unusual set of circumstances.

4 Q But let's say that I have a meeting to go  
5 to with Mrs. Clinton on the second or third floor, or  
6 the third floor of the residence and I attend that  
7 meeting. Would you, as a normal course of business,  
8 have occasion to witness or attend such a meeting,  
9 unless you were specifically called for?

10 A Unless I was specifically requested, either  
11 myself or one of my staff may escort that individual  
12 to the location of the meeting, and then make sure  
13 they were comfortable and then depart. But they  
14 would not take part in a meeting unless they were  
15 specifically requested to.

16 Q Nor would they be present there during the  
17 meeting?

18 A There would be no reason for them to be.

19 Q And you yourself do not go in the normal  
20 rotation for a duty usher?

21 A Occasionally.

22 Q Occasionally to fill in for one of your

1 assistants?

2 A That's right.

3 Q You mentioned at one point that the guests  
4 would be issued -- guests to the White House  
5 residence would be issued something like a temporary  
6 pass?

7 A Yes.

8 Q Do all persons who are in the residence,  
9 that is on the second and third floor of the White  
10 House residence, in the executive residence, do they  
11 have to wear a pass at all times?

12 A No. In fact the only people who get those  
13 passes are overnight guests.

14 Q And they would not be displaying it at all  
15 times?

16 A On the second and third floor, no.

17 Q They would just use it to gain access?

18 A Access to the second and third floor, not  
19 to the White House complex.

20 Q But they don't wear it in their pocket or  
21 anything while walking around the second and third  
22 floor?



1 A No.

2 MR. KRAVITZ: They might.

3 THE WITNESS: If they choose to. I mean  
4 it's on a chain and if they just decide to wear it,  
5 they may decide to do that of their own accord but  
6 there's no requirement because there's nobody there  
7 to check them anyway.

8 BY MR. DINH:

9 Q There is no Secret Service to challenge  
10 them, like you said on the second and third floor?

11 A No. Once guests are in those private areas  
12 they are as guests of the Family and remain so.

13 Q And you certainly wouldn't challenge a  
14 guest to show his or her credentials?

15 A No, I wouldn't challenge them, unless it  
16 was -- well, I shouldn't say that. If there was  
17 somebody there that I was totally unfamiliar with,  
18 yes, I would if I ran across them. If it was under a  
19 set of circumstances where I wasn't expecting a  
20 houseguest and I saw somebody and I would expect any  
21 of my staff to do likewise.

22 Q Do you recall any such incident?

1 A I do not.

2 Q In July and August 1995?

3 A I do not.

4 Q Do you have any knowledge of any of your  
5 staff encountering such an incident in July or August  
6 of 1995?

7 A No.

8 MR. DINH: I have nothing further. Thank  
9 you very much for your help and your expertise in the  
10 construction records. This was in particular very  
11 helpful because we didn't even know what the numbers  
12 designated. In that regard, thank you.

13 THE WITNESS: That reference is important  
14 to the contractors and to other people that would  
15 deal with those because they don't necessarily know  
16 the names of the rooms in generic terminology or how  
17 the names are used. They use floor plans as access.

18 BY MR. DINH:

19 Q That would be the common reference point  
20 for all these contractors?

21 A That's correct.

22 Q So if I were to depose a contractor, I

1 should not refer to the book room as the book room  
2 but rather refer to it as room 319A?

3 A They may know it as a matter of course, but  
4 to be specific, they're going to know it by the floor  
5 plan number.

6 Q 319A?

7 A Yes.

8 MR. DINH: Great. Thank you very much.  
9 Appreciate it.

10 EXAMINATION

11 BY MR. KRAVITZ:

12 Q Mr. Walters, I have a few follow-up  
13 questions but hopefully it won't take more than about  
14 10 or 15 more minutes. Why don't we work backwards  
15 from my notes so we can keep talking about the same  
16 subjects we've just been talking about.

17 You identified some documents from the  
18 contractor records which indicated that on July 26,  
19 1995 in the book room, room 319A, the ceiling was  
20 patched and there was some work done on the wall  
21 between the book room and the table linen room.

22 Do you remember that?

1 A Yes. It doesn't necessarily mean there was  
2 work done between the two rooms.

3 Q On the wall that divides --

4 A Yes, the common wall.

5 Q Is it your understanding from the fact that  
6 it's listed as room 319A that whatever work was done  
7 on that wall was done on the side of the wall that is  
8 inside the book room as opposed to the side of the  
9 wall that's inside the table linen room?

10 A I don't have specific knowledge.

11 Q You wouldn't know?

12 A No. I didn't -- wasn't hands-on,  
13 day-to-day with the operational end of this project.

14 Q Can you tell from -- let me back up.

15 You also identified another document, S  
16 020135, which indicated that the ceiling in what  
17 you've called the table linen room was patched on  
18 August 2, 1985. Do you remember that?

19 A 135?

20 Q Right.

21 A It says the ceiling in 319.

22 Q And that's the table linen room?

1 A It is.

2 Q And specifically the document indicates  
3 that the ceiling was patched in the table linen room?

4 A It does.

5 Q To your knowledge, was the patching that  
6 was done in the book room on July 26, 1995 related to  
7 the same problem that the patching that was done in  
8 the table linen room on August 2, 1995 related to?

9 A I can't specifically say that. The amount  
10 of activity that's occurred in the ceiling above all  
11 the rooms on the third floor due to this project has  
12 necessitated patches almost routinely over the last  
13 two years.

14 Q Are you familiar with this incident that  
15 Mr. Dinh has referred to a couple of times when  
16 someone appeared almost to fall through the ceiling  
17 in the book room?

18 A Only in a cursory way that I heard  
19 Ms. Marshall refer to the fact that there was an  
20 occasion when she thought somebody was coming through  
21 the roof on top of her, and I don't specifically  
22 myself relate it to that date.

1 Q When you say "that date," that's July 26  
2 '95?

3 A Yes.

4 Q Do you know, do you have any idea when it  
5 was that this incident occurred, when Ms. Marshall  
6 felt as if someone was actually falling through the  
7 ceiling in the book room?

8 A My only recollection is that it happened  
9 sometime in the spring or summer.

10 Q Of 1995?

11 A Yes.

12 Q Did you see the book room ceiling, what it  
13 looked like, after that incident occurred when the  
14 person almost fell through or broke through?

15 A I did not.

16 Q Do you know how long it was after the  
17 person almost fell through the ceiling or broke  
18 through the ceiling before the ceiling was repaired  
19 in the book room?

20 A I do not.

21 Q Was there a mess in the book room? I mean,  
22 I guess common sense would lead one to think there



1 was a mess if someone almost fell through the ceiling  
2 into the book room and there would be plaster all  
3 over the place. Do you know anything about that?

4 A I think Mrs. Marshal's recollection was  
5 more from fear, and it seemed like it was much larger  
6 event than it was. But in listening to the casual  
7 conversation that she had about that incident, and  
8 then having some knowledge of the fact of what  
9 repairs were done on the third floor, I don't  
10 remember any incident that was that large of an event  
11 where somebody's foot came through or their backside  
12 came through the ceiling.

13 Q What were people actually doing in the  
14 ceiling, were they putting in ducts and wires?

15 A All of this project is taking all of the  
16 existing ductwork out of the attic space, putting new  
17 air handling units in on the third floor and putting  
18 new ductwork and the associated conduit, electrical  
19 controls and so forth, that go with that.

20 Q And the attic is directly above the third  
21 floor?

22 A The third floor ceiling and then you're in

---

1 the attic space.

2 Q Do you recall any point in time when any of  
3 the tables or other furniture in the book room were  
4 covered with anything to protect them from things  
5 that might have been falling from the ceiling?

6 A That would be our routine process, is that  
7 we would go in and anything we couldn't remove from  
8 the area, we would put plastic or tarp over it to  
9 protect it from falling debris. I don't specifically  
10 remember if things were covered in there for that  
11 specific event but that wouldn't be an unusual  
12 occurrence. That's what we would expect to be done,  
13 that things would be covered.

14 Q Let me give you a hypothetical question.  
15 Let's assume that you received a call one day and you  
16 were told there's been -- there's a hole in the  
17 ceiling in the book room, someone's foot fell through  
18 it, please come look. And you go look and there's  
19 some debris on a table in the book room, and it's  
20 covering up some of the item on the table.

21 What would you do at that point?

22 A My first reaction would be to respond and



1 see how great the damage was to see what I needed,  
2 first of all, to clean it up; and second of all, if  
3 it did any damage to anything in the room and then  
4 assess what needed to be done to start the repair  
5 process.

6 I don't remember at any point having -- you  
7 referred to it like a foot coming through the ceiling  
8 or something -- an incident that was that large.  
9 We're talking about cracking plaster where possibly a  
10 thin sheet of plaster, but could be relatively  
11 large -- I mean, the largest piece I can remember is  
12 probably one square foot of thin plaster coming  
13 loose, not that you could then see up through into  
14 the attic space. I hope that's helpful.

15 Q No, it is. But what would you do -- for  
16 example, let's assume that this plaster fell from the  
17 ceiling onto the table. What would you do with the  
18 table? Would you cover it up, would you take the  
19 stuff that was covered with plaster off and clean it,  
20 or would you wait for further instructions before  
21 moving anything, still in that circumstance?

22 A It would depend on the degree of debris.

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1 We probably would move things to the side and have  
2 the housekeeping staff clean up the dust and dirt  
3 particles.

4 Q So would that be an exception to the  
5 general rule that your staff would never move  
6 something without an instruction from the First  
7 Family?

8 A Certainly, although they would try and  
9 replace it to where it -- if there were figurines or  
10 knickknacks or something, we would try and replace  
11 them in the same place where they were before.

12 Q So that rule that you talked about earlier,  
13 by which your staff would never move anything absent  
14 an instruction from a member of the First Family or  
15 someone else with authority, is a general rule but  
16 not an absolute rule?

17 A No. In the case of an emergency, we would  
18 take the necessary action.

19 Q And you say that your general practice or  
20 your staff's general practice in the case of debris  
21 falling from the ceiling would be to cover up things  
22 underneath the affected area in the ceiling unless

1 they could be removed?

2 A Previous to doing any work or knowing of  
3 any possibility of things, we would cover things up.

4 Q And your testimony is back in July/August  
5 1995, you just have no recollection one way or the  
6 other as to whether the table or any of the tables in  
7 the book room was covered with any kind of tarp to  
8 protect it from more falling debris from the ceiling?

9 A I don't have any specific recollection of  
10 that.

11 Q Can you tell from the records, the  
12 construction records, whether the ceiling work that  
13 was done in the book room on July 26, 1995 was  
14 completed that day?

15 A Not from these records, no, I cannot. If I  
16 could add one other thing, I can't even tell from  
17 these records whether in fact the final finish, the  
18 final repainting may have been done by our staff.  
19 These records are just not detailed enough to do  
20 that.

21 Q So it's possible, for example, that the  
22 contractors would have been in there on July 26, 1995

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1 and patched the ceiling and the wall in the book room  
2 and that someone from -- or a team of people from  
3 your staff might have then done painting at some  
4 later time, and that painting would not be reflected  
5 in these contractor records?

6 A That's correct.

7 Q Now, if that was the case -- strike that.

8 If the contractor had done painting, that  
9 would have been reflected in these records?

10 A Not necessarily. They're not specific  
11 enough. These are just general comments. In fact,  
12 there is one company that does most of the finish  
13 work called Finishes; interesting name.

14 Q Sometimes things actually make sense.

15 A And I do not see them listed proximate to  
16 the 26th date, which would tend to lead me to believe  
17 that we probably used our own in-house staff to do  
18 the final painting.

19 Q If the contractor had patched the ceiling  
20 and the wall on the 26th, and let's say your  
21 people -- I mean, this is just hypothetically, I  
22 recognize -- did touch-up painting say two days

1 later, what would likely have been the state of the  
2 room during that two-day period in the middle? Would  
3 there have been some kind of tarp over the table; or  
4 do you have any idea?

5 A Under normal practices, it would not stay  
6 covered because, once again, you'd be in the private  
7 area of the First Family and we'd want to restore  
8 that area to their usage. So if we did have a tarp  
9 over anything, we would take it up and remove it.

10 Now, if the Family -- and I don't have the  
11 specific logs to show whether they were out of town.  
12 If they were out of town, we may have made the  
13 decision, since they weren't going to be using that  
14 area, to leave it covered. But I don't have any way  
15 of knowing from the records that I have in front of  
16 me.

17 Q I don't think we have that information  
18 either.

19 A In most cases, though, we would try and  
20 restore the area so the Family could use it, since it  
21 is in the private area.

22 Q I suppose that would be the case unless

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1 there was some fear that the ceiling, something more  
2 was going to fall from the ceiling that you didn't  
3 want to fall on things?

4 A If we were repairing it, it better stay up  
5 there. Finishes would have to finish somewhere else.

6 Q Now, would you have records anywhere --  
7 "you" being the usher's office -- as to whether, and  
8 if so when, any of your staff did the finishing on  
9 the ceiling and the wall in the book room?

10 A The usher's office, we would not have any.  
11 There would have to be something that would have  
12 caused somebody to write it down. Under the normal  
13 course of events, we would not write it down. That's  
14 what our two painters are there for and they would  
15 have no cause to write it down, unless we were  
16 remodeling the room and changing the paint color, in  
17 which case they would want to make sure that they had  
18 the right paint for future use. But that was not the  
19 case in here at this time.

20 Q When Viet was asking you questions about  
21 the state dinner for the South Korean president which  
22 occurred on July 27, 1995, you mentioned that there



1 were numerous other events in the July/August 1995  
 2 time period that didn't rise to the level of state  
 3 dinners but which nevertheless might have caused  
 4 increased activities in the table linen room. Can  
 5 you -- I see you've opened up your -- is that a  
 6 personal calendar?

7 A It is.

8 Q It's a personal calendar?

9 A Yes.

10 Q By referring to your personal calendar, can  
 11 you identify for us the events and the dates on which  
 12 they occurred?

13 A What time frame?

14 Q Well, actually, why don't we stick to the  
 15 July 20 to August 14 time frame.

16 A You missed the press picnic on the 18th of  
 17 July.

18 Q Let's go back to the 18th. That's a  
 19 biggie, no doubt.

20 (Laughter.)

21 Why don't we start with the press picnic.

22 A The 18th of July, it was a press picnic on

1 the south grounds for approximately 1500 people.

2 Q Is that something -- do you have any  
 3 recollection as to whether the table linen room --

4 A Whether that specifically would have caused  
 5 additional -- I don't know, but at different times in  
 6 that room the housekeeper has kept cloths that we use  
 7 outside as overlays and they may have been in there.  
 8 I just don't have a specific recollection.

9 On July 20, we had a reception that evening  
 10 for 350 people. We may have used table cloths as  
 11 overlays. I just don't make notations in here nor do  
 12 I normally make any notation or the usher's office of  
 13 what cloths we used for these various events or where  
 14 we retrieved them from.

15 We had a mayor's event on July 26, which  
 16 was only a few people for cocktails so we wouldn't  
 17 have had a use -- that wouldn't have increased the  
 18 uses of that room. Those were the major events that  
 19 I've just related. I take that back.

20 There was one on July 28, an event on the  
 21 south grounds that could have included as many as --  
 22 I don't have a final count -- could have had as many



1 as 1500 people that would have been similar to the  
2 press picnic as far as usage of table cloths.

3 Q What event was that?

4 A I believe it was -- I have down here a  
5 watermelon event. I believe there were watermelons  
6 brought from Hope, Arkansas.

7 Q Anything in the first two weeks of August?

8 A I don't know.

9 Q You weren't here. So just so the record is  
10 clear, you've been working off your own personal  
11 calendar and your personal calendar does not indicate  
12 the type of White House event for time periods when  
13 you were on vacation; is that correct?

14 A That's correct.

15 Q So the fact that your personal calendar has  
16 none of this type of events in it for the period that  
17 you were on vacation in August does not mean that  
18 none of those events occurred during that time; is  
19 that correct?

20 A Unless an event was put on the calendar  
21 after I left, I probably would have some notification  
22 in my calendar, the fact that something was

1 scheduled, because I would have attended some kind of  
2 planning meeting, like I said, unless it occurred  
3 after I left and I wasn't made aware of it. While I  
4 was gone, my assistants would have taken care of  
5 that.

6 Q Does your personal calendar have any event  
7 like the ones we've been talking about for the first  
8 two weeks of August?

9 A It does not.

10 Q Did the use of the book room or the types  
11 of activities that the book room was used for change,  
12 to your knowledge, at any time in 1995?

13 A I don't know how to respond. It has been  
14 used as a book room, it's been used as a storage  
15 room. It also was used as -- there was a computer in  
16 there at one point, so there were some additional  
17 people that were working in that space during '95.

18 Q Was that related to Mrs. Clinton's book?

19 A Yes.

20 Q When was it that the computer was brought  
21 into the book room?

22 A I don't have a specific indication of what

1 date that occurred.

2 Q Do you have a general sense?

3 A At one point I believe a personal computer  
4 of the First Family was in there, but my memory on  
5 that is very weak. I just don't have a recollection.

6 Q Now, who were the people who were -- you  
7 mentioned that, at some point, when the computer was  
8 in there, additional people were working in the book  
9 room. Who were those people?

10 A There were -- I'd have to look, I'm not  
11 sure that I want to make -- the logs would show who  
12 those people were, and because we didn't interact  
13 with them that frequently, there was some people from  
14 Mrs. Clinton's staff; certainly Maggie Williams, I  
15 believe Elizabeth Boyer.

16 I'd have to really look at the logs to give  
17 you the names. There were a number of different  
18 consultants to Mrs. Clinton on the book that were  
19 there from time to time. I hesitate to give you  
20 their names because I don't want to misspeak.

21 And a lot of the people that were there, I  
22 don't know what their function was. They were there

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1 in conjunction with the book but I don't know what  
2 their responsibilities were.

3 Q And your testimony is that you can't  
4 remember whether these people were in the book room  
5 working on the book before, during or after the  
6 July/August 1995 period that we've been talking  
7 about?

8 A It was -- I know it was certainly after the  
9 Family returned from vacation, and there was some  
10 work that was done prior to the vacation because I  
11 know Mrs. Clinton worked very hard during the  
12 vacation on the book, so I know -- but I don't know  
13 the specific time frame. I mean the logs would  
14 certainly show.

15 Q So in other words, these people, whoever  
16 they were and whatever specifically they were doing,  
17 they were working, doing something related to  
18 Mrs. Clinton's book in the book room for some period  
19 of time before the Clintons went on their vacation?

20 A Yes.

21 Q And then for some period of time after the  
22 Clintons returned from their vacation?

1 A Yes.

2 Q Did any of these people who were working on  
3 Mrs. Clinton's book work in the book room while the  
4 Clintons were on vacation, if you know?

5 A Not to my recollection, but once again, the  
6 logs would show specifically, and I could certainly  
7 tell you from the logs. I just don't have a specific  
8 recollection.

9 My sense is that I would tend to doubt it  
10 because we were doing a tremendous amount of work  
11 while they were gone on vacation. That was the whole  
12 idea of this runup to that time was to try and do as  
13 much work while they were gone, and we pretty much  
14 asked that there not be any activity in the second  
15 and third floor area, to include house guests or  
16 family members that might come in so that we could  
17 continue. We had air systems turned off, there was  
18 no air conditioning, there was no air flow in those  
19 areas.

20 Q So in other words, even though the  
21 construction records don't indicate that work was  
22 being done specifically in the book room, say for

1 certain weeks in August, that does not mean that it  
2 would have been a pleasant place for people to be  
3 hanging out because there might not have been any air  
4 conditioning, for example?

5 A And we were doing work in there  
6 specifically, and that's why I pointed out, that I  
7 felt it was worthwhile pointing out that the Family  
8 went on vacation around the 19th of August. And at  
9 that point the logs from the contractors office or  
10 representative of the National Park Service start to  
11 show more generic terms, work done on the second and  
12 third floor, because at that point we were having  
13 increased hours of workage.

14 Q Going to the time period of July and  
15 August, 1995 again, can you give us a sense, just  
16 kind of as a general matter, how messy or how neat  
17 the book room was?

18 A It was a transition room. It was quite  
19 messy at times, and cleaned up at times. It would  
20 depend on the amount of incoming material and how  
21 quickly it went out. There were times when it was  
22 very messy.



1 Q Viet asked you previously whether you had  
2 ever noticed in the book room anything that appeared  
3 like these billing records that he showed you, and  
4 your testimony was no.

5 A That's correct.

6 Q My sense from your testimony is that  
7 because of your commitment to respecting the privacy  
8 of the First Family, you don't -- when you go into a  
9 room like the book room, you don't really look around  
10 to see what's on the table, because it's not your  
11 stuff, it's the First Family's stuff; is that  
12 accurate?

13 A That's pretty accurate. I would look to  
14 see if there's dust before I would look to see if  
15 there were papers.

16 Q And so would you agree that the fact that  
17 you never noticed that billing records were sitting  
18 on the table in the book room doesn't mean that the  
19 billing records weren't sitting there?

20 A I wouldn't have a reason to look. I mean,  
21 it would be some cause for me to see them. I'd be  
22 more interested in whether the trash had been picked

1 up, whether the room was generally clean, than I  
2 would whatever knickknacks or papers or whatever were  
3 on the desk.

4 Q I guess the point is the fact that you  
5 didn't notice that the billing records were there  
6 doesn't really mean very much because you wouldn't  
7 have been looking for them?

8 A Unfortunately, yes, that's exactly right.

9 Q You've testified about this ductwork that  
10 was going on in what used to be a closet in  
11 Mrs. Clinton's third floor office. And I believe you  
12 testified that before anyone went in there and got  
13 the asbestos out of there and then actually put the  
14 ducts in, someone would have removed whatever was in  
15 the closet from the closet?

16 A Correct.

17 Q Do you know who removed the items from that  
18 closet before all this work was done?

19 A I do not.

20 Q Is that the kind of movement of materials  
21 that would be done by the usher's office?

22 A If we were asked to do it, if somebody



1 requested that we come and assist in moving things  
2 out of that closet, if there were things in the  
3 closet. As I said, I don't have any knowledge that  
4 there were things in the closet, but that would be  
5 something that would be done as a matter of course,  
6 and any one of us could have taken that phone call  
7 and asked for that assistance.

8 Q There wouldn't be any record of that?

9 A No.

10 Q Let me just -- I hope I don't muck up the  
11 record, but let me -- in the interest of trying to  
12 just summarize what you said about the usher's logs  
13 of movement up to the second and third floor of the  
14 residence, and then people coming down from the  
15 second and third floor of the residence, what I  
16 understood you to say was that there are no set  
17 procedures for how the logs are to be kept; is that  
18 correct?

19 A That's correct.

20 Q And in other words, the way the logs are  
21 kept varies from usher to usher, whoever is keeping  
22 the logs at one time?

1 A Well, it's my responsibility, if you will,  
2 to try and keep some continuity so that if the Family  
3 wants to use them in the future for their personal  
4 records, they can go back and have -- so that there's  
5 not a huge divergence of the way the information is  
6 entered.

7 So if they're looking for something, they  
8 can find it without having to know the idiosyncrasies  
9 of the various assistant ushers. And it is  
10 something, as you've seen, that they're pretty  
11 straightforward. So we try and maintain them in some  
12 sense of order.

13 This is something that started actually  
14 when -- many, many years ago, it was a handwritten  
15 document in history and has just continued as a  
16 personal record for the Family.

17 Q But these are not formal records with some  
18 official government purpose?

19 A No, sir.

20 Q They're kept really as a remembrance for  
21 the First Family after they leave office?

22 A That's absolutely correct, and that's why I

1 say I'm uncomfortable talking about them.

2 Q And I believe you've testified that  
3 although the records are not intentionally  
4 incomplete, you recognize that they are incomplete in  
5 that some people go up to the second or third floor  
6 or come down from the second or third floor without  
7 being listed in the logs?

8 A That has occurred, yes.

9 MR. KRAVITZ: I think that's all I have.

10 Thanks.

11 EXAMINATION

12 BY MR. DINH:

13 Q I have a couple of more questions to either  
14 clarify what Neil has asked you or some others that  
15 occurred to me while he was asking you some  
16 questions, so if you can bear with me, I'd thank you  
17 very much.

18 Actually one thing before I forget, we  
19 talked at the beginning, when you looked at these  
20 records, about the designation OTR and you testified  
21 then it was off the record?

22 A Yes.

1 Q Who requests you to make that designation?

2 A Sometimes it will come from the President's  
3 office. We may get that information from Capricia  
4 Marshall. Right now I can't think of anybody else  
5 who would ask that that be done. Sometimes we do it  
6 on our own.

7 Q For what reasons would you do it on your  
8 own?

9 A Because we know it's something that's not  
10 on the public release, if you will, of the  
11 President's press schedule or public schedule,  
12 however you want to refer to it, and it may have  
13 something to do with the Family's privacy.

14 Q So do you get a copy of the official  
15 schedule every day?

16 A Most days, yes.

17 Q And if you match that up, you can pretty  
18 much see what is included on there and what's not?

19 A That's correct.

20 Q Let's say I were invited to a meeting with  
21 the First Lady and as I walked through, walked past  
22 your duty desk, can I just call it out and say by the

1 way, Dennis, Mr. Freemyer, who happens to be the duty  
2 usher at the time, say this is off the record, will  
3 he make that notation?

4 A Depends on who you are at that time.

5 Q If I were Susan Thomases?

6 A No.

7 Q If I were David Kendall?

8 A No. They have no official status.

9 Q Secretary of state?

10 A If he requested it?

11 Q Yes.

12 A We probably would get that -- it would be  
13 highly unusual. We'd get that notification from the  
14 President's office, I'm sure.

15 Q But let's say for whatever reason, let's  
16 say Ms. Williams walks by and says I have a meeting  
17 with the First Lady, this is off the record, that you  
18 would note?

19 A Maggie Williams?

20 Q Yes.

21 A Probably would note it as off the record if  
22 she requested it as chief of staff to the First Lady.

1 Q Or she can tell Capricia Marshall --

2 A Would you please see that the meeting this  
3 afternoon is logged as off the record. I think an  
4 example possibly to clarify was a number of years  
5 ago, going back a number of administrations, when  
6 there was a change to be made in the Federal Reserve  
7 chairman. The President wanted to meet with the  
8 Federal Reserve chairman without having it be public  
9 knowledge and we were requested that it be off the  
10 record because he didn't want information out as to  
11 who the President might be considering as a Federal  
12 Reserve chairman.

13 Q That makes perfect sense. Supreme Court  
14 justices?

15 A Exactly right, but that's a couple of  
16 administrations ago, as an example.

17 Q We talked a little bit about the incident  
18 that happened in the attic space, that I guess to a  
19 certain extent drop into 319, the book room.

20 A 319A.

21 Q Correct. Where is the entrance to the  
22 attic space?



1 A Well, there are two entrances. One was  
2 created for this project where we actually put a hole  
3 in the roof to have the contractors exit and enter  
4 without having to go through the family space, and a  
5 second one that, if I can, I would like not to have  
6 it for security purposes.

7 Q That's fine. It's not relevant to --

8 A It's not in the area that we're discussing  
9 and it is -- you enter through a closet and up  
10 through an access panel.

11 Q That's perfectly fine. I was just  
12 wondering whether there was an entrance within the  
13 space that we were talking about, that is 319, 319A,  
14 321, 320 or 323?

15 A No.

16 Q What kind of ceiling is this? This is  
17 not --

18 A Plaster. There are -- in the area we're  
19 talking about it's plaster ceilings.

20 Q You testified earlier with respect to the  
21 work that is being done to prepare or to repair this  
22 ceiling in particular, the two dates were July 26 and

1 August 2 that we had identified from the records.  
2 Mr. Kravitz asked you some questions regarding the  
3 preparations and cleaning associated with that and  
4 specifically with the moving of furniture or the  
5 placing of tarpaulins in order to minimize the dust  
6 or damage to the existing materials in the room.

7 You testified that to the extent that you  
8 have to move anything you move it back as soon as the  
9 work is finished, especially when the President or  
10 First Family is present because they use that space?

11 A Correct.

12 Q And that's exactly why you move the TV and  
13 VCR back and forth all the time instead of just  
14 leaving it to one side and then leaving the crawl  
15 space open?

16 A Correct.

17 Q And you said that this may change if the  
18 President or First Lady are not in the residence,  
19 therefore there would be no need to restore it?

20 A Right.

21 Q I'm going to refer you to S 020007 and S  
22 020008, which are the usher's log for Wednesday, July



1 26 and 27 and ask you to study that briefly and tell  
2 me whether the notations there include entries and  
3 exits -- and activities by the President and First  
4 Lady.

5 (Witness reviewed the document.)

6 A Yes, they do.

7 Q So it is safe to assume that judging from  
8 that, they were present in the residence at the time,  
9 during these days, they were in use?

10 A It does indicate that Mrs. Clinton departed  
11 for Denver, Colorado and that she didn't return until  
12 late that night, so she was out for a considerable  
13 amount of time, but we would have restored the area  
14 probably.

15 MR. KRAVITZ: What day was that?

16 THE WITNESS: The 26th of July. And since  
17 the President was there that day, we would have  
18 restored it certainly.

19 BY MR. DINH:

20 Q And the same thing with respect to the  
21 27th. That's S 20007, and 200010, which is a  
22 continuation of the 27th.

1 A Oh, yes, state dinner day. Obviously  
2 there.

3 Q That was the July 27, date of the South  
4 Korean state dinner which you testified to earlier.

5 A Right.

6 Q I'd ask you the same with respect to the  
7 second day in question in which there were repairs,  
8 that is August 2. That is record number S 020017.  
9 Can you tell me if the President and First Lady were  
10 in the residence at that time?

11 A Yes, they were.

12 Q Specifically there was a dinner for  
13 Mrs. Clinton that night was there not, with a B.  
14 Feinman?

15 A Yes. That's why it took me a moment, I  
16 didn't see a reference to Mrs. Clinton during the  
17 earlier part of the day.

18 Q Likewise, that's why the dinner stuck out  
19 in my mind because I had made the same -- but the  
20 President is certainly present during the entire day?

21 A Yes.

22 Q Now, Mr. Kravitz asked you some questions

1 regarding the scheduling of events for the first two  
2 weeks of August when you were out on vacation. And  
3 your personal calendar indicated that there were no  
4 such events, at least you knew of, before you left,  
5 there may have been some added. The week before, of  
6 course, there was some activity, two or three events  
7 that week. When there is an event such as this, you  
8 took personal charge in order to plan and execute the  
9 event?

10 A Execute. Plan is done by the social office  
11 and the First Lady.

12 Q That is execute, like serve the dinner and  
13 making sure everything runs shipshape?

14 A That's correct.

15 Q And you personally do that?

16 A Yes.

17 Q And so it's not unreasonable to assume that  
18 when you're out of town or on vacation the First  
19 Lady -- or the social office would not schedule  
20 events because you are not there to take personal  
21 charge?

22 A No, that's not correct.

1 Q You do have very good lieutenants who take  
2 care of things?

3 A The President's schedule supersedes mine.  
4 Without making light of this, no, the schedule is not  
5 determined by my presence or absence. My schedule,  
6 especially for vacation, is usually timed so that I  
7 can be back while they're gone to ensure that the  
8 residence is back in good shape when they return.

9 Q I understand that, but to the extent that  
10 the President and First Lady's schedule could be  
11 accommodated with your vacation schedule, is that  
12 fact taken into account? That is, if I were in the  
13 social office and I were planning an event the time  
14 of which is discretionary, do people ask you what is  
15 your vacation schedule?

16 A No. I plan my schedule around the  
17 activities.

18 Q And how far in advance do you notify the  
19 President and First Lady with respect to your plans  
20 for vacation?

21 A It can vary, depending on what the activity  
22 level is. Normally a month or so.

1 Q So they know well in advance that you are  
2 going on vacation?

3 A Yes.

4 MR. DINH: Off the record.

5 (Discussion off the record.)

6 BY MR. DINH:

7 Q Back on the record.

8 At the end of your conversation with  
9 Mr. Kravitz earlier, you mentioned that you would go  
10 around to look for dust and to see whether trash is  
11 cleaned and the like. Is that part of your  
12 supervisory role in overseeing the maintenance and  
13 care of the White House?

14 A It is.

15 Q How often do you do this inspection, is  
16 that on a daily basis?

17 A Of various areas, not the entire building  
18 every day, but of various areas at different times.

19 Q Let's say, how many times a week would you  
20 expect an area like the book room and exercise room?

21 A Possibly once a week.

22 Q And the higher use areas obviously you

1 would inspect more often?

2 A That's correct.

3 Q I just have several more questions relating  
4 to specifically trying to identify the people who  
5 have access or who use the book room during this  
6 period. If you will bear with me.

7 Earlier you testified that there were  
8 approximately 25 to 28 members of your staff who have  
9 reason to use the table linen room.

10 A Routinely.

11 Q Routinely. Some may come in unexpectedly  
12 or something like that, but as a routine matter,  
13 those would be the 25 or 28 people. And I would ask  
14 you now to study documents labeled S 020062 through S  
15 020071 and this has been produced to us by the White  
16 House and is a staff listing of executive residence  
17 of the White House. It has been redacted to remove  
18 the addresses and phone numbers of the various  
19 employees. I take it this is a listing of all the  
20 persons under your supervision and department. And I  
21 would ask you to go through this and just roughly  
22 identify the people to whom you were referring



1 earlier.

2 A By name or by responsibility?

3 Q No, no, by name is fine. And if it  
4 includes the entire department obviously you can just  
5 say the entire housecleaning staff without naming  
6 their names. But to the extent that the ones that  
7 are persons within the department who have that  
8 routine need to go into a table linen room, you can  
9 name them out by name.

10 MR. KRAVITZ: And the question is which  
11 people have regular access to the --

12 BY MR. DINH:

13 Q Identify the 25 to 28 persons who routinely  
14 have use of the table linen room.

15 A The butlers that are listed here, seven  
16 names.

17 Q You don't have to count them, I'm sorry.

18 A The florists.

19 Q All four of the florists?

20 A Yes. And the housekeeping staff.

21 Q The entire housekeeping staff obviously?

22 A May have reason to go into that area.

1 Q Because they have various responsibilities,  
2 some of which may include table linens at various  
3 times?

4 A That's correct.

5 Q And those are the people?

6 A Those are the principal people who would  
7 have reason to go in that room on a more routine  
8 basis than the others. As I said before, the  
9 engineers may have to go in there to check room  
10 temperatures or to clean grate work, grates, air  
11 handling grates.

12 Q Grates being g-r-a-t-e?

13 A G-r-a-t-e-s, yes. Electricians to make  
14 sure the light bulbs are changed and there's no  
15 burnt-out light bulbs.

16 Q And Mr. Kravitz asked you a line of  
17 questions relating to the persons helping  
18 Mrs. Clinton with her book. And some of that  
19 activity you testified occurred prior to the First  
20 Family leaving for vacation on August 19, 1995. Now,  
21 specifically can you recall for me the period  
22 prior to them leaving for vacation, prior to the



1 First Family leaving for vacation, did the persons  
2 associated with the book use the book room for  
3 purposes of helping Mrs. Clinton with her book?

4 A I would have to say yes.

5 Q And, of course, after they returned from  
6 vacation, they used the book room in order, for the  
7 same purpose?

8 A Yes.

9 Q There was a computer there for that  
10 purpose, or did they use the computer for that  
11 purpose?

12 A There was a computer there. Once again,  
13 because of the virtue of the fact that that's in a  
14 private area, we didn't really have knowledge of what  
15 was going on in that space. Because these were  
16 guests of the family and didn't have reason to  
17 interact with them in that space, so I hesitate to  
18 say out of my personal knowledge I know what they  
19 were doing in that space and who was in there at what  
20 time.

21 Q You did not identify the persons by name  
22 without the logs. Is Barbara Feinman one of the

---

1 persons?

2 A Yes.

3 Q Is Becky Saletan one of the persons?

4 A That's a name I'm familiar with, yes.

5 Q Let me ask you now again to look at the  
6 residence logs -- were there other people that you  
7 can think of who were helping her out with the book,  
8 or were those the two principal persons?

9 A There were other people. I can't recall  
10 their -- without looking, I can't recall their names  
11 or the specific dates that they would have been  
12 there, but there were additional people. As I  
13 mentioned, there were additional staff at one point  
14 or another who were there. Now, whether they were  
15 helping on the book or whether they were working on  
16 something else, once again I'm not privy to that.

17 Q I'm mainly interested in the nonstaff  
18 persons working with her on the book. Let me show  
19 you records of three days in which I have noted that  
20 Mrs. Feinman is recorded on your usher's record as  
21 being in the White House residence and ask you to  
22 study them and see if there were other people, like

1 you said, who had helped her -- who had accompanied  
2 Ms. Feinman or otherwise helped Mrs. Clinton on the  
3 book. The first one will be S 020017.

4 A These are nonstaff people you're talking  
5 about?

6 Q Exactly. August 2 I'm concerned with.

7 A We've already said Ms. Feinman.

8 Q Right. Can you read the entry there  
9 relating to Ms. Feinman?

10 A The first entry I have is at 10:30 that I'm  
11 reading. It says Barbara Feinman to the second  
12 floor.

13 Q That records her coming into the residence?

14 A That's right. Do you want me to read each  
15 one of these?

16 Q Actually, there's a notation that she had  
17 lunch with the First Lady?

18 A Yes.

19 Q And does it show when she left?

20 MR. KRAVITZ: Did you say that there's a  
21 notation that she had lunch with the First Lady?

22 MR. DINH: Is there not? I'm sorry.

1 THE WITNESS: It just says lunch, not with  
2 the First Lady.

3 BY MR. DINH:

4 Q I'm sorry. I'm mistaken. Does the record  
5 show when she left?

6 MR. KRAVITZ: It has her as a houseguest.

7 BY MR. DINH:

8 Q Right. That leads to my next question.

9 A She probably would not have left unless she  
10 went down and came back, then it would be logged. So  
11 she was a houseguest overnight.

12 Q She remained there as a houseguest  
13 overnight?

14 A Uh-huh.

15 Q Great. Getting back to the original  
16 question, were there other people there that you can  
17 identify who were outside persons, nonstaffers who  
18 helped Mrs. Clinton with the book?

19 A I don't see anybody on here that I'm  
20 familiar with who would have helped with the book,  
21 but once again, I don't have personal knowledge of  
22 who helped with the book and who didn't.

1 MR. KRAVITZ: And your answer is only  
2 specifically with regard to August 2, 1995?

3 THE WITNESS: That's correct.

4 BY MR. DINH:

5 Q Let me show you now the next entry for  
6 Ms. Feinman, that is on record numbered S 020019,  
7 Friday, August 4 and ask you basically to go through  
8 the same exercise again. Can you note what time  
9 Ms. Feinman arrived?

10 A It says 9:00 a.m., Barbara Feinman to the  
11 third floor.

12 Q Are there other entries for Ms. Feinman?

13 A 12:45 lunch for Ms. Feinman. Dinner,  
14 Barbara Feinman in the solarium. This is very  
15 uncomfortable.

16 Q I know. I'm sorry. And she, of course,  
17 remained as a houseguest that night. Does that  
18 indicate that on the record?

19 A It does.

20 Q The solarium is on the third floor?

21 MR. KRAVITZ: Viet, I guess I don't see the  
22 need to have Mr. Walters reading information off the

1 documents that are going to become part of the  
2 transcript, unless there's some additional need for  
3 that information. I mean, as you and I talked, this  
4 stuff is in our documents.

5 MR. DINH: Right. Well, just for the  
6 record, my reason for doing so simply is to -- is  
7 because you raised the possibility that these people  
8 had access to the third floor book room, which is  
9 obviously very relevant to our investigation, so I  
10 just want to pinpoint exactly when and where they  
11 were having access.

12 BY MR. DINH:

13 Q The solarium --

14 MR. KRAVITZ: Well, Viet, I mean,  
15 Mr. Walters has already testified, and I hope I'm not  
16 misunderstanding this, but once someone like  
17 Ms. Feinman goes up to the second floor, she can go  
18 anywhere she wants on the second floor or third floor  
19 without the logs indicating that.

20 MR. DINH: Fine.

21 MR. KRAVITZ: Is that correct?

22 THE WITNESS: That's correct.



1 MR. KRAVITZ: I'm not sure that this really  
2 advances the ball one way or the other in any  
3 direction.

4 BY MR. DINH:

5 Q So the solarium is on the third floor?

6 A It is.

7 Q Let me ask you now to look at the entry for  
8 August 8, Tuesday. You know, I appreciate your  
9 discomfort and your professionalism. Can you just --  
10 in light of that, let me just ask you to verify that  
11 Ms. Feinman indeed was in the White House at that  
12 time.

13 A Yes.

14 Q And was she a houseguest?

15 A Yes.

16 Q Thank you. Again, let me refer you back to  
17 the same document and I will now identify it as S  
18 020023 and ask you to verify that Ms. Saletan was in  
19 the White House at the time.

20 A I see here she was a houseguest. I'm just  
21 looking to see. Yes.

22 Q Thank you very much. Do you know Helen

1 Dickey?

2 A Yes.

3 Q Do you know if she was employed at the  
4 White House, in 1995?

5 A I do not know that. She was previously  
6 employed at the White House. I do not know when she  
7 left.

8 Q What was her capacity at the White House  
9 when she was employed there, do you remember?

10 A She worked in the social office of the  
11 White House.

12 MR. DINH: I have nothing further. I just  
13 want to thank you for coming here and giving us your  
14 testimony. It has been very helpful and I appreciate  
15 your concern for the First Lady and First Family's  
16 privacy and confidentiality and I must commend you on  
17 your professionalism.

18 MR. KRAVITZ: I actually have one more  
19 question.

20 EXAMINATION

21 MR. KRAVITZ:

22 Q I understand that you don't know when it



1 was that the computer was moved into the book room  
2 and when it was exactly that these other people  
3 started working on Mrs. Clinton's book in that room,  
4 but whenever that time was, was furniture moved  
5 around in the book room?

6 A As I said before, there's a constant  
7 movement of furniture in that room according to what  
8 activity is going on in there.

9 Q And moving a computer in was one of those  
10 activities that resulted in movement of furniture?

11 A Whether it occurred during that period of  
12 July and August of '95, I just don't have --

13 Q Whenever it happened?

14 A Whenever it happened would have occurred  
15 that something would have had to have been moved,  
16 yes, to put it in there.

17 Q Was a special table brought in to put the  
18 computer on?

19 A There was a computer table at one time.  
20 Whether it was concurrent with that computer coming  
21 in or not, I just don't remember.

22 MR. KRAVITZ: Thanks. Off the record.

1 (Whereupon, at 5:35 p.m., the deposition  
2 was concluded.)  
3  
4


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GARY J. WALTERS

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

193

I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires MARCH 14, 1998

DEPONENT \_\_\_\_\_

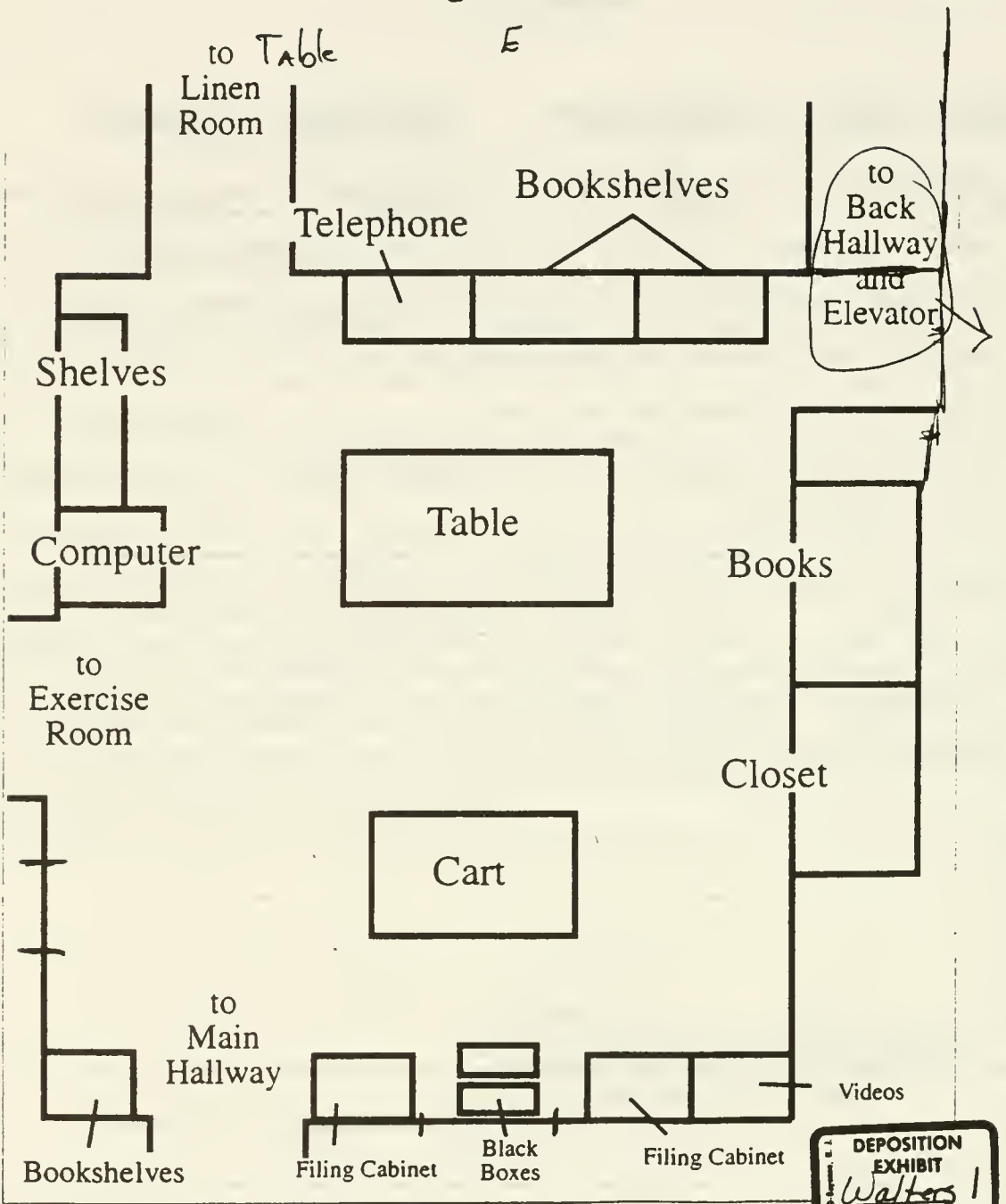
## ERRATA

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DEPOSITION  
EXHIBIT  
*Walters*  
62-2-96 53



JULY 20 - AUG. 14<sup>th</sup>

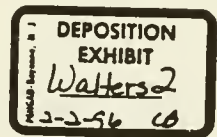
RM 323 S020167 8/18; S020171 8/20; S020175 8/21;  
S020177 8/23; S020191 8/23;  
30<sup>th</sup>

RM 319A S020123 7/26; S020125 8/2; S020173 8/21  
319  
S020175 8/22  
S020177 8/23  
S020191 8/30

RM 321/0 S020123 7/26; S020125 7/27; S020127 7/2;  
S020137 8/2; S020163 8/16  
319A #; S020167 8/18  
319A #

GENERAL CONTRACTOR - JCM CONTROLS INC.

FIRST FAMILY VACATION - ~ 8-19-95





**DEPOSITION OF PATRICIA M. BLACK  
IN RE: S. RES. 120**

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**MONDAY, FEBRUARY 5, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of PATRICIA M. BLACK, called for examination pursuant to notice of deposition, at 10:55 a.m. in Room 640-A of the Hart Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.  
Majority Associate Special Counsel  
ROBERT J. GIUFFRA, JR., Esq.  
Majority Chief Counsel  
JAMES S. PORTNOY, Esq.  
Minority Associate Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

FRED W. GIBSON, JR., Esq.  
Office of the Inspector General  
Federal Deposit Insurance Corporation  
1735 North Lynn Street  
Arlington, Virginia 22209  
On behalf of the Deponent.

**ALSO PRESENT: PAUL WEECH**

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EXHIBITS

DEPOSITION NUMBER	IDENTIFIED
Patricia M. Black	
Black Exhibit 1 .....	103, 1969
Black Exhibit 2 .....	105, 1970
Black Exhibit 3 .....	159, 1971
Black Exhibit 4 .....	163, 1972



## 1 PROCEEDINGS

2 MR. GIUFFRA: Good morning, Ms. Black. My  
3 name is Robert Giuffra. I'm the chief counsel of the  
4 Senate Banking Committee. To my left is Chris  
5 Bartolomucci, who is an associate special counsel  
6 that works for the Majority. Further down is Jim  
7 Portnoy.

8 Are you deputy special counsel or  
9 associate?

10 MR. PORTNOY: I think I'm an associate.

11 MR. GIUFFRA: He is an associate Democratic  
12 special counsel. Further down is Paul Weech, who is  
13 counsel to the Democrats on the Banking Committee.

14 This is a deposition being conducted  
15 pursuant to Senate Resolution 120 which establishes a  
16 Special Committee administered by the Banking  
17 Committee to investigate Whitewater Development  
18 Corporation and related matters, among those related  
19 matters, certain activities of the Rose Law Firm  
20 related to its representation of the RTC.

21 The focus of your deposition today will be  
22 the Rose billing records found at the White House on

---

1 January 4, 1996. The procedure is as follows. I  
2 will be asking you a series of questions and the  
3 Democratic staff will have an opportunity to ask you  
4 questions. You will be testifying under oath. You  
5 have a right to be represented by counsel. I see  
6 Mr. Gibson is here, so you will be ably represented.

7 Please state an appearance for the record.

8 MR. GIBSON: Fred Gibson, senior attorney  
9 with the office of the FDIC representing Ms. Black.

10 MR. GIUFFRA: I will attempt to go as  
11 quickly as possible. You will be testifying  
12 tomorrow. A transcript will be made available this  
13 evening and we will try, if you get here in the  
14 morning, to get a copy of it to you. I apologize for  
15 the quick turnaround time.

16 The procedure for the conduct of the  
17 deposition is set forth in the resolution. If you  
18 have any questions about objections and the like, we  
19 can talk about that. You are allowed to object to  
20 the form of the question. If you have an objection  
21 on grounds of privilege or relevance, the procedure  
22 that is specified in the resolution is that we can go

1 ask the Chairman to rule on that objection.  
2 Hopefully we can avoid all that today. I can't  
3 believe this will be contentious.

4 Do you have any questions?

5 MS. BLACK: No.

6 MR. GIUFFRA: Mr. Gibson, any questions?

7 MR. GIBSON: No.

8 Whereupon,

9 PATRICIA M. BLACK

10 was called as a witness and, having first been duly  
11 sworn, was examined and testified as follows:

12 EXAMINATION

13 BY MR. GIUFFRA:

14 Q What is your present position, Ms. Black?

15 A I am an Assistant Inspector General with  
16 the FDIC.

17 Q What are your responsibility as an  
18 Assistant Inspector General with the FDIC?

19 A I head up an unit that is responsible for  
20 providing legal support for various aspects of the  
21 operation of the Office of the Inspector General and  
22 that also contains an inspection unit responsible for

1 performing inspections within the FDIC.

2 Q Do you still have any responsibilities for  
3 what might broadly be described as Madison-related  
4 matters?

5 A Yes. I have been asked initially by the  
6 Chairman and within the FDIC by the acting Inspector  
7 General to conduct some follow-up work on a previous  
8 investigation that we did with regard to the Rose Law  
9 Firm and conflicts that that firm might have had with  
10 respect to work done by the Resolution Trust  
11 Corporation. I was previously counsel to the  
12 Resolution Trust Corporation IG, and I was acting in  
13 that capacity during the course of our investigation  
14 of the Rose Law Firm.

15 MR. GIUFFRA: Off the record.

16 (Discussion off the record.)

17 BY MR. GIUFFRA:

18 Q I would like to focus your attention to the  
19 report that was issued by the Office of Inspector  
20 General of the RTC on August 3, 1995. You played a  
21 role in preparing this report?

22 A Yes.

1 Q What was the extent of your role in  
2 preparing this report?

3 A At that time I was counsel to the inspector  
4 general. I was very active both during the course of  
5 the investigation in providing legal advice  
6 concerning leads to follow, so forth. In addition, I  
7 was very active in the drafting of the report itself.

8 Q Did you play role in terms of supervising  
9 the investigation? Was that more Mr. Switzer?

10 A That was -- I was certainly not in the  
11 supervisory chain of command. But I was certainly  
12 providing advice concerning the direction of the  
13 investigation, because the investigation concerned  
14 legal conflicts of interest. For that they needed a  
15 lawyer. So I certainly provided advice as to the  
16 direction of the investigation.

17 Q I would like to show you a document bearing  
18 Bates number DKS N 28928 through 29043. These are  
19 billing records that were discovered on January 4,  
20 1996 at the White House.

21 Have you reviewed these billing records?

22 A Yes, I have.

1 Q When did the RTC IG first make a request  
2 that would have called for the production of these  
3 billing records and to whom did it make that request?

4 A These billing records would have been  
5 covered by a subpoena that the RTC Inspector General  
6 issued in March of 1995, March 4th -- 1994. I'm  
7 sorry.

8 MR. PORTNOY: I'm sorry?

9 THE WITNESS: March of 1994, a subpoena to  
10 the Rose Law Firm.

11 BY MR. GIUFFRA:

12 Q The RTC IG did not send a document request  
13 to the Rose Law Firm; would have operated by  
14 subpoena?

15 A We issued an initial subpoena to the Rose  
16 Law Firm covering a broad range of documents. These  
17 documents would have been responsive to that  
18 subpoena.

19 Q That subpoena was served -- do you know the  
20 exact date in March?

21 A One moment. Let me see. It might be  
22 reflected in our report. I cannot recall off the top

1 of my head.

2 Q Take your time.

3 (Witness examined the document.)

4 A I do not see it in quick reference to the  
5 report. It would have been very early in March. I  
6 will find out.

7 MR. GIUFFRA: Off the record.

8 (Discussion off the record.)

9 BY MR. GIUFFRA:

10 Q That would have been the first  
11 communication by the RTC IG with anyone that would  
12 have called for these records?

13 A Yes.

14 Q So, there were no document requests sent  
15 first?

16 A No.

17 MR. GIUFFRA: Off the record.

18 (Discussion off the record.)

19 BY MR. GIUFFRA:

20 Q So, the RTC IG has its own subpoena power?

21 A Yes, it does. Under the IG Act, the RTC  
22 had the authority to subpoena documentary evidence.

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10

1 Q If someone fails to comply with an RTC IG  
2 subpoena, what steps can the RTC IG take?

3 A The RTC IG could enforce that subpoena in  
4 U.S. District Court.

5 Q And failure to comply with a lawful  
6 subpoena by the RTC IG carries what consequence?

7 A Well, the subpoenas are not  
8 self-enforcing. We would have to go into U.S.  
9 District Court and enforce it. We were told that the  
10 Rose Law Firm had no records responsive with regard  
11 to the billings to Madison.

12 Q So, if someone possessed records responsive  
13 to an RTC IG subpoena and knowingly failed to turn  
14 them over, do you know what consequences might flow  
15 from that?

16 A If the subpoena related to an audit, there  
17 would be the -- if the subpoena related to an audit  
18 and there was an affirmative representation that  
19 records did not exist and the records in fact did  
20 exist, I would view that as obstruction of a federal  
21 audit.

22 If the subpoenas relate to an



1 investigation, and again the affirmative  
2 representation is made that the records did not  
3 exist, there is the potential for an obstruction  
4 charge there as well.

5 Q In this particular case, was this an audit  
6 or was this an investigation?

7 A We had both an audit and an investigation  
8 going. The first subpoena covered both.

9 Q The audit was the aspect having to do with  
10 the actual amount of the bills?

11 A That is correct, the bills that were  
12 provided to the FDIC and then the RTC.

13 Q Did there come a time when the RTC IG  
14 served subpoenas on any other entities that would  
15 have called for the production of these billing  
16 records?

17 A No, we did not.

18 Q Did you ever serve a subpoena on -- let's  
19 make the record clear -- on the White House?

20 A No, we did not.

21 Q Did you ever serve a subpoena on the  
22 President and Mrs. Clinton?

1 A No, we did not.

2 MR. PORTNOY: I think we could ask it this  
3 way. Did you ever serve a subpoena on anyone other  
4 than the Rose Law Firm?

5 THE WITNESS: No, we did not.

6 BY MR. GIUFFRA:

7 Q Did you ask the Rose Law Firm to attempt to  
8 collect records from former partners?

9 A The subpoena was directed to the firm  
10 itself. I would expect that to cover anything within  
11 the custody and control of the firm itself. I cannot  
12 recall if we asked them to go to former partners. I  
13 just don't recall that.

14 Q And you don't know whether the subpoena  
15 would have required the firm to ask former partners  
16 whether the former partners possessed records that  
17 might be responsive to the RTC IG subpoena?

18 A Again, I would have expected them to make  
19 the effort to obtain any documents within their  
20 custody and control.

21 Q You don't know whether records maintained  
22 by former partners would be within the custody or

1 control of the Rose Law Firm?

2 A No, I don't.

3 Q What was your reaction when you learned of  
4 the discovery of these billing records at the White  
5 House?

6 A Well, I was certainly curious as to what  
7 was contained therein.

8 Q Did you have any reaction with regard to  
9 the fact of the discovery of those records within the  
10 White House?

11 A Well, I suppose like everybody else, I was  
12 somewhat surprised.

13 Q Why were you surprised?

14 A My understanding was that those documents  
15 had been requested. Just from reading the papers and  
16 so forth, my understanding was those documents had  
17 been requested by various entities, such as the  
18 Committee, and the RTC I believe had requested them,  
19 not the Inspector General's office, but the  
20 Resolution Trust Corporation itself in connection  
21 with its work.

22 Q That request had been made of the White

1 House?

2 A That was my understanding.

3 Q Did you have any understanding as to  
4 whether there was a request also made to the  
5 President and Mrs. Clinton in their personal  
6 capacities?

7 A My understanding was that there had been,  
8 but I don't know that. I haven't seen the request  
9 itself.

10 Q The basis for your understanding is press  
11 accounts?

12 A Yes.

13 Q You would not have spoken with anyone at  
14 the RTC about RTC document requests to the White  
15 House or the Clintons?

16 A No, I did not.

17 Q Did the fact that you believed the --  
18 strike that.

19 We have already established that the RTC  
20 request was just to the Rose Law Firm.

21 A The RTC Inspector General, yes, sir.

22 Q I apologize.

1           Why didn't the RTC IG send subpoenas to  
2 other entities?

3           A    We had no indication at that time that Rose  
4 Law Firm records would have existed anywhere else.  
5 We did not -- we had not heard at that time.  
6 Remember, our investigation closed several months  
7 ago. We did not know at that time that records had  
8 apparently been removed from the firm.

9           Q    Did the fact that you believed that the RTC  
10 and other investigatory bodies had made requests to  
11 the White House and to the Clintons in any way affect  
12 your decision as to what subpoenas you would seek to  
13 serve? That was poorly phrased.

14          A    Not particularly, no. We certainly would  
15 have expected that if RTC had any documents which  
16 were relevant to our investigation, we of course  
17 could obtain them directly from the RTC.

18          Q    Was there a process by which the RTC IG  
19 would obtain documents from the RTC?

20          A    Yes.

21          Q    During the course of your investigation,  
22 were there occasions when the RTC provided relevant

1 documents?

2           A    Regularly, yes. Under the IG Act, the IGs  
3 have statutory authority to obtain any documents  
4 within the custody and control of their own agency,  
5 merely upon request. The agency is required to  
6 provide them, and the RTC always did.

7           Q    Interesting. Did you have a request -- it  
8 is kind of a backwards way of doing this. Did you  
9 have a request of the RTC that would have called for  
10 the production of these Rose Law Firm billing  
11 records?

12          A    It was not that formal. If we were in  
13 contact with the General Counsel's Office on a  
14 regular basis --

15          Q    If the General Counsel's Office obtained  
16 possession of the Rose Law Firm billing records  
17 denoted, beginning DKS N 28928, you would have  
18 expected them to have been turned over to the RTC  
19 IG --

20          A    Yes.

21          Q    -- because they were directly relevant to  
22 your investigation?

1 A Yes.

2 Q Do you know when the RTC first either by  
3 subpoena or request sought copies of Rose Law Firm  
4 billing records from the White House?

5 A I do not.

6 Q Do you know when they first sought billing  
7 records from the President and Mrs. Clinton?

8 A I do not.

9 Q Do you know if it was in 1994?

10 A I simply do not know.

11 Q But you know they did make such a request?

12 A I believe that they made such a request.

13 Q That is based on press accounts?

14 A I also spoke on a fairly regular basis with  
15 people in the RTC Office of General Counsel, and I  
16 may well have known it from talking with them as  
17 well. I just can't recall from what source I learned  
18 that.

19 Q You had an understanding that the RTC would  
20 have been by subpoena?

21 A I believe they did subpoena.

22 Q Had subpoenaed records from the White House

1 and the President and Mrs. Clinton, they would have  
2 encompassed these billing records?

3 A That's correct.

4 Q You don't know whether that is based on  
5 press accounts or communications you had with the  
6 RTC, and it could be both?

7 A I believe it is both.

8 Q Your testimony is it would be probably from  
9 press accounts and the RTC?

10 A Yes. To the extent I said press accounts  
11 initially, that should be corrected.

12 Q Have you reviewed these newly discovered  
13 billing records?

14 A Yes, I have.

15 Q What impact -- strike that.

16 What do you believe to be the significance  
17 of these billing records?

18 A The investigation which we were performing  
19 in 1994 and completed in the summer of 1995 was an  
20 investigation of actual or potential conflicts that  
21 the Rose Law Firm might have had with regard to its  
22 work for initially the FDIC and then the RTC. As a



1 part of that investigation, we looked at the firm's  
2 work for Madison Guaranty. We also looked at the  
3 firm's work, if any, for Seth Ward.

4 We looked at various transactions,  
5 including Castle Grande, IDC, the Frost litigation,  
6 the representation before the Arkansas Security  
7 Department and general work that they did for Madison  
8 Guaranty. These records -- the records that were  
9 available to us at the time we were doing our  
10 investigation were very sparse. It was very  
11 difficult for us to understand what the Rose Law Firm  
12 had in fact done. We had no more than a handful of  
13 invoices, five or six. Those invoices were typically  
14 in block format.

15 Q By that, you mean they were --

16 A The January 1986 invoices.

17 Q January 30, 1986. By that you mean just  
18 the long form invoice that was sent to the client?

19 A Yes.

20 Q It does not describe the time?

21 A It does not. It is a narrative of services  
22 all run together. It does not indicate what services

1 were done by what attorney and so forth. That is  
2 what I mean by block format. As I said, those  
3 invoices were very few, and the ones that we found,  
4 we found in Madison's institutional records, which  
5 were then held by the RTC.

6 Q Let me ask a question about that. The  
7 invoices that you did obtain, to the extent you  
8 obtained invoices, you received from the RTC?

9 A We reviewed the Madison records  
10 themselves. They were located in Kansas City. We  
11 went to Kansas City and reviewed those records and  
12 pulled some invoices from those records. We also  
13 received them from Pillsbury, Madison. I believe  
14 Pillsbury, Madison had done the same thing, gotten  
15 them from the institutional records.

16 Q Pillsbury, Madison's work was just  
17 piggybacking the RTC subpoenas?

18 A Yes. Pillsbury, Madison was outside  
19 counsel for the RTC. We reviewed the records. As a  
20 matter of fact, I know I knew there was a subpoena  
21 because I reviewed records which Pillsbury, Madison  
22 obtained pursuant to that subpoena or pursuant to

1 subpoena, so I knew there were subpoenas out there.

2 MR. PORTNOY: Did you say you reviewed the  
3 subpoena or the records?

4 THE WITNESS: Records, sir. To this date,  
5 I have not seen the subpoenas themselves that RTC  
6 issued.

7 BY MR. GIUFFRA:

8 Q Did you ever receive any billing materials  
9 from the Rose Law Firm?

10 A Well, of course we received a lot of  
11 billing materials for their bills to the RTC.

12 Q Just related --

13 A You are referring to Madison?

14 Q Relating to the Madison representation,  
15 yes.

16 A I do not believe that we did.

17 Q Did you ever receive a fee recap?

18 A We did receive a fee recap. We got that  
19 from Pillsbury, Madison also.

20 Q So your testimony would be that you didn't  
21 receive any documents related to the Rose Law Firm's  
22 representation of Madison?

1 A We may --

2 MR. GIBSON: Let's go off the record for a  
3 minute.

4 (Discussion off the record.)

5 MR. GIBSON: Back on the record.

6 THE WITNESS: We may have gotten that fee  
7 recap as a part of our audit from the Rose Law Firm.  
8 I would have to check with the auditors to find that  
9 out. But we may have. I believe that counsel to the  
10 Rose Law Firm also submitted some time sheets for  
11 certain of their attorneys subsequent to the  
12 completion of our investigation. We did not have  
13 them at the time.

14 BY MR. GIUFFRA:

15 Q That would have been after August 3, 1995?

16 A Yes. And Rose indicated to us that it did  
17 not have invoices relevant to the Madison work. In  
18 fact, we gave them copies of what we had.

19 Q Was Rose cooperative in responding to your  
20 subpoenas for documents or subpoena for documents?

21 A There were two subpoenas for documents.

22 Q There was a second subpoena?

1 A Yes. We subpoenaed their client list.  
2 They sued to quash the subpoena and to enjoin our  
3 investigation.

4 Q This was for the client list subpoena?

5 A Yes.

6 Q When was that subpoena?

7 A Again, as a part of the conflicts  
8 investigation, we subpoenaed a list of client names,  
9 only identities, not any indication of work done, but  
10 the actual client list or lists that the Rose Law  
11 Firm had maintained for the last 10 years.

12 We litigated over that for eight or nine  
13 months.

14 Q What was the result of that dispute?

15 A Our subpoena was enforced.

16 Q By the U.S. District Court?

17 A Yes. There were two actions. They  
18 initially sued us in Arkansas to quash the subpoena  
19 and to enjoin our investigation, which they  
20 considered beyond our jurisdiction. That action was  
21 dismissed by the U.S. District Court in Little Rock.  
22 We subsequently brought an action here in the U.S.

1 District Court in Washington and ultimately our  
2 subpoena was enforced.

3 Q Was the Rose Law Firm cooperative with  
4 regard to the first subpoena for documents related to  
5 the representation of Madison?

6 A There were negotiations which were  
7 required. They certainly produced a great deal of  
8 material. Discussions were required. I would say  
9 they were reasonably cooperative.

10 Q Did they indicate to you that records of  
11 Mrs. Clinton were no longer in existence relating to  
12 her work with regard to Madison Guaranty?

13 A I don't know that we focused on specific  
14 lawyers. They indicated that their records with  
15 regard to Madison Guaranty were extremely sparse and  
16 they were not able to provide us very much at all.

17 Q Did they indicate to you that there had  
18 been any destruction of documents relating to Rose  
19 Law Firm?

20 A I don't know what terminology was used. We  
21 knew that obviously records had existed at one time  
22 and they no longer did.



1 Q Was there any discussion of a document  
2 retention program at Rose?

3 A I believe that there was. But again, I  
4 would have to go back and ask the auditors and  
5 investigators who actually did that work. I myself  
6 did not ask them that. I will find out.

7 Q Getting back to the billing records found  
8 at the White House, would you agree that these  
9 billing records are the best available evidence of  
10 the extent of Rose's work for Madison?

11 A They are the best evidence that I have seen  
12 certainly.

13 Q Why do you believe them to be the best  
14 evidence you have seen of Rose's work for Madison?

15 A They are considerably more detailed than  
16 what was available to us before.

17 Q Would you describe these billing records as  
18 very important evidence with regard to Rose's work  
19 for Madison?

20 A Yes.

21 Q Why do you believe these billing records to  
22 be very important evidence with regard to Rose's work

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1 for Madison?

2 A Again, from our perspective, and keep in  
3 mind we were doing a conflicts investigation, whether  
4 or not there was a conflict of interest in  
5 representation depends on what the representation  
6 was. We were unable in many instances to ascertain  
7 what the representation was. This material indicates  
8 to a better degree what that was.

9 Q You mean what the representation of Madison  
10 was?

11 A Yes, what work they had done for Madison.

12 Q So, your report of investigation which was  
13 issued on August 3, 1995 would have been -- strike  
14 that whole question.

15 In view of the discovery of these billing  
16 records in January of 1996, your report of  
17 investigation dated August 3, 1995 was incomplete?

18 A It was complete as of August. We now have  
19 additional information which would have impacted that  
20 report.

21 Q This is information you would have wanted  
22 to have when you were doing your investigation?



1 A Yes. In fact, it was information we tried  
2 to get from Rose, but they didn't have it.

3 Q To what extent do these billing records  
4 change anything contained in your report dated August  
5 3, 1995? I apologize. You can backfill in later.

6 A It is probably as difficult to go back and  
7 figure out what impact evidence would have had on an  
8 investigation and how you would conduct an  
9 investigation as it is to figure out how you would  
10 have relitigated a case had you known certain  
11 things.

12 But had we had this material, certainly  
13 there would have been questions that we asked  
14 witnesses that we did not ask. There would have been  
15 lines of inquiry that we would have pursued that we  
16 did not pursue. There might have been witnesses that  
17 we would have asked to interview that we did not ask  
18 to interview.

19 Our report was a recitation of facts.  
20 There are facts here that would have been important  
21 and that would have been included in that report.

22 Q Without going through the records, and we

1 will do that, what facts would have been set forth in  
2 your report that are not set forth -- strike that.

3 What facts could you have learned from the  
4 billing records that are not set forth in your  
5 report?

6 A The degree of representation. The nature  
7 of the representation before the Arkansas Security  
8 Department is eliminated by these records.

9 Q How is it eliminated by the records?

10 A There are indicators of what was done at  
11 certain times which would have been important to us.  
12 There are indicators of who did things at certain  
13 times that would have been important to us.

14 One of the issues that was material to our  
15 investigation was the matter of the degree of  
16 knowledge within the Rose Law Firm of the Arkansas 6  
17 percent investment limitation. These records are  
18 relevant to that.

19 Q Let's focus on that single issue just for a  
20 few minutes. This investment limitation was a matter  
21 of state law; correct?

22 A That's correct.

1 Q And this was something -- would you have  
2 expected a lawyer advising an S&L in connection with  
3 the acquisition of property to have been aware of  
4 this direct investment limitation?

5 A In general, I would expect a lawyer to be  
6 familiar with the laws of the state in which that  
7 lawyer is practicing as it affects that lawyer's  
8 practice.

9 Q Do you think a lawyer who had attended a  
10 closing on behalf of Madison Guaranty in connection  
11 with the so-called IDC-Castle Grande transaction  
12 should have been aware of this direct investment  
13 rule?

14 A It certainly would have been helpful. What  
15 we were looking at with the Rose Law Firm in this  
16 particular matter was whether there was actual  
17 knowledge, and we were aware that there was actual  
18 knowledge on Mr. Massey's behalf.

19 Q What was the basis for your belief that  
20 Mr. Massey had actual knowledge of the direct  
21 investment law?

22 A We had a memorandum from Mr. Handley on

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1 which Mr. Massey was copied that discussed the direct  
2 investment limitation. In addition, Mr. Massey  
3 generated a response to that memorandum.

4 MR. PORTNOY: With respect to the 6 percent  
5 rule?

6 THE WITNESS: Yes, he did respond.

7 BY MR. GIUFFRA:

8 Q Now, how did the billing records that were  
9 found at the White House change your analysis with  
10 regard to the extent of Rose's knowledge of the 6  
11 percent limitation?

12 A The billing records --

13 Q Feel free to consult them if you would  
14 like.

15 A I will do that, as a matter of fact. If  
16 you will give me a moment, I would like to go to the  
17 records --

18 Q If I could direct your attention to page  
19 28962.

20 MR. GIBSON: Let's go off the record while  
21 she flips through this stuff.

22 MR. GIUFFRA: Sure.

1 (Witness examined the document.)

2 THE WITNESS: I have the memorandum from  
3 Mr. Massey and Mr. Handley's response.

4 MR. GIUFFRA: Ms. Black turned to page  
5 28960 of the billing records.

6 BY MR. GIUFFRA:

7 Q What do you believe to be of import on this  
8 page?

9 A Well, there are entries starting at the top  
10 of the page under -- the top line of the description,  
11 "services rendered," the attorney is HRC and a  
12 conference with Mr. Massey. The second line is  
13 "telephone conference with Jim McDougal," and on my  
14 copy it is illegible, but I believe it is  
15 G-i-r-o-i-r.

16 The third entry is a "conference with Rick  
17 Massey." On 6/17/85, there is an entry, "review of  
18 application amendments." All of those that I just  
19 described were Mrs. Clinton.

20 Under Mr. Massey's -- under the designation  
21 RNM, which I believe is Mr. Massey, there is a  
22 "conference with S. Hawkins, research FHLBB rules,

1 research necessity of FHLBB and FSLIC approval,"  
2 "conference with Hawkins" again.

3 In addition, on a prior billing memorandum,  
4 I believe there is -- let me find it.

5 MR. GIUFFRA: Off the record.

6 (Discussion off the record.)

7 BY MR. GIUFFRA:

8 Q What page?

9 A Again, it is cut off on my document. I  
10 believe it is 62.

11 Q This is the entry that has the limited  
12 partnership?

13 A Yes, matter number 2, "limited  
14 partnership."

15 Q Okay.

16 A Under the second entry on that page, under  
17 the initials -- Mr. Massey's initials, "research  
18 ASLAB regulations, research FHLBB regulations, re:  
19 B/D." These are three separate entries.

20 Q What is ASLAB?

21 A It is the Arkansas Securities -- no. Just  
22 a moment.

1 MR. GIBSON: Off the record.

2 (Discussion off the record.)

3 BY MR. GIUFFRA:

4 Q So, you believe that this is -- ASLAB is  
5 Arkansas Savings and Loan Advisory Board?

6 A I cannot remember the precise words that  
7 the acronym stands for, but it is the savings and  
8 loan entity in Arkansas.

9 Q Was the direct investment rule promulgated  
10 by ASLAB?

11 A It was promulgated by Arkansas. ASLAB  
12 dealt with it.

13 Q So that these billing records, the  
14 references to ASLAB regulations you believe relate in  
15 some way to the direct investment rule?

16 A I believe so.

17 Q What is --

18 A There would be other rules that they would  
19 have as well.

20 Q What is the basis for your belief?

21 A Going back to Mr. Handley's May 22nd  
22 memorandum, if you look in paragraph 1, Mr. Handley

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1 is talking about the applications filed with the  
2 Arkansas Savings and Loan Association Board, and he  
3 goes through some more things there. He is talking  
4 about rule 5(b)(2).

5 Q Yes.

6 A Saying it needs to be approved by the  
7 savings and loan supervisor. That appears to relate  
8 to ASLAB. He then in paragraph 7 talks about the 6  
9 percent rule, and he references rule(5)(c). He  
10 appears to be referring to the same set of  
11 regulations, just a subsequent rule.

12 Q Your point is that if you look at the June  
13 17 letter from Mr. Massey to Ms. Bassett on page 2,  
14 which is RIC 39286, Mr. Massey references the direct  
15 investment limitation, Rule 5?

16 A Yes, in numbered paragraph 7. So, he is  
17 answering Mr. Handley's concerns about violation of  
18 the direct investment. This is the document, and if  
19 you look at the last paragraph, "with this response  
20 Madison hereby amends the application." He is  
21 transmitting material in this letter and the attached  
22 physically amended application in response to



1 Mr. Handley's letter or memorandum of May 22nd.  
2 So this is Madison Guaranty's response to  
3 that.

4 Again, returning to the --

5 Q The billing records?

6 A Yes. The document that ends in 60.

7 Q 60 or 62?

8 A 60 now, back to 60.

9 Q Yes.

10 A There is an entry under Mrs. Clinton's  
11 initials on June 17, '85, indicating that she  
12 reviewed the Massey document, review of application  
13 amendments.

14 Q And the application amendments are  
15 specified in the June 17, '85?

16 A Yes.

17 Q The point is that the fact of the billing  
18 records disclose that Mrs. Clinton on 6/17/85  
19 reviewed the application amendment, i.e., this  
20 two-page letter, indicates Mrs. Clinton was aware of  
21 the direct investment limitation?

22 A Those would be facts which might indeed

1 suggest that and would have been referenced in our  
2 report.

3 Q Your point is that these billing records,  
4 number one, show that Mr. Massey had fairly extensive  
5 or some involvement --

6 A Yes.

7 Q -- with looking into the direct investment  
8 rule?

9 A Yes. If you look -- I didn't go all the  
10 way through the 62 document. There are various  
11 indications he is researching it and talked to people  
12 about it, entries by Mr. Massey.

13 Q So that the billing records indicate that  
14 the knowledge of the Rose Law Firm of the direct  
15 investment rule was broader than just Mr. Massey, who  
16 was then a young associate?

17 A There is some evidence of that, yes.

18 Q You would argue that -- strike that.

19 You might in a report reference the fact  
20 that Mrs. Clinton would have been aware of the direct  
21 investment rule because she would have read the  
22 letter, what she billed time for?

1 A We would have referenced the billing  
2 entry.

3 Q The 6/17/85 entry?

4 A That's correct.

5 Q Are there any entries you would have  
6 referenced in the report relating just to the direct  
7 investment rule issue?

8 A Well, again, comparing what Mr. Massey is  
9 doing and when he is doing it, his research, he is  
10 doing research in late May and June that appears to  
11 relate to this direct investment rule. We know that  
12 Mrs. Clinton was the billing partner on this matter,  
13 and these billing records reflect that Mr. Massey is  
14 also having telephone conferences with Mrs. Clinton  
15 during this period of time. What those conferences  
16 were about is not reflected on these bills, but we  
17 would have referenced in our report the fact of the  
18 conferences.

19 Q Is there anything else you would have  
20 reflected in your report that is not reflected in  
21 your report relating to the direct investment rule on  
22 the basis of the bills? Take your time.

1 (Witness examined the document.)

2 A At this point, I think I need to note that  
3 our review is not complete.

4 Q Of these bills?

5 A That is correct, and anything else that we  
6 might look at in connection with these bills. These  
7 bills have made us look at some documents  
8 differently, understanding that there is a different  
9 interpretation perhaps which is warranted. Our  
10 review is not complete. It is still ongoing.

11 Q Two questions. One, is the FDIC planning  
12 on doing a supplemental report based on the bills?

13 A Yes. The Chairman asked us to review this  
14 material and provide him a written report, and it is  
15 our intention to do that. That report would not be  
16 issued to the Chairman. It would be issued to the  
17 FDIC. The Chairman would be provided a copy. The  
18 Committee would be provided a copy.

19 Q This was actually the request that was made  
20 by Chairman D'Amato?

21 A Yes, it was.

22 Q To see whether your analysis would be

1 different in light of the billing records.

2 A Yes.

3 Q Absent Chairman D'Amato's request, do you  
4 think the FDIC might have prepared its own report  
5 examining the billing records?

6 A I don't know. The request came fairly  
7 quickly.

8 Q So no one ever got to think about that  
9 question.

10 Would you consider the billing records  
11 found at the White House the most important evidence  
12 with regard to your examination of the Madison  
13 conflict issue?

14 A I don't know that I would say most  
15 important.

16 Q Can you think of any evidence that would be  
17 more important?

18 A Well, these memoranda that we had and  
19 letters from Handley to Massey were certainly of  
20 import. That is quite -- we already had those.

21 Q That is just limited to the district  
22 investment rule.

1 A Yes.

2 Q In terms of your entire investigation --

3 A The Madison portion.

4 Q Can you think of any evidence more  
5 important than these billing records?

6 A We compiled an enormous amount of  
7 evidence. I think the Madison section of the report  
8 itself takes up about that much.

9 Q By "that," you mean a foot?

10 A Yes, about a foot. Again, our perspective  
11 was one of conflict, actual or potential conflict.  
12 We certainly had other documentary evidence which  
13 indicated that there were actual potential conflicts  
14 with Madison. We had -- we did not know the  
15 extent -- as much about the extent or the precise  
16 nature without these billing records.

17 I'm having a hard time saying that one  
18 piece of evidence is more important than another  
19 piece of evidence or is the most important.

20 Q You would agree that these billing records  
21 are a significant piece of evidence?

22 A Yes, sir.

1 Q Would you say a very significant piece of  
2 evidence?

3 A Yes, sir.

4 Q And certainly among the most important  
5 evidence that you would have reviewed in the course  
6 of your investigation?

7 MR. PORTNOY: I think the witness has  
8 already testified that she doesn't want to go on the  
9 record stating that any particular piece of evidence  
10 is uniquely important. The fact you are trying to do  
11 so is inconsistent with her prior answer.

12 BY MR. GIUFFRA:

13 Q My question was, would you consider these  
14 billing records to be among the most significant  
15 pieces of evidence in your investigation. That is a  
16 different question. It is certainly fair game.

17 A I am comfortable saying it is important, it  
18 is very significant, and I think that is about the  
19 extent of my degree of comfort.

20 Q That's fine. Is there anything more --  
21 Is there anything more in the billing  
22 records that is significant with regard to the direct

1 investment rule?

2 A Again, with the notation our review is not  
3 yet complete, that is all that I have at the moment.

4 Q So, the significant new piece of evidence  
5 is the fact that Mrs. Clinton reviewed the  
6 application amendments --

7 A Again, remembering what we were doing was a  
8 conflict review, the degree of knowledge within the  
9 Rose Law Firm and whether it was at an associate  
10 level or a partner level was of some import to that.  
11 That is why it was significant to us.

12 Q And also the fact that Mr. Massey appears  
13 to have done a fairly significant amount of research  
14 into certain ASLAB regulations, including the direct  
15 investigation rule?

16 A Yes. We did not know that before.

17 Q You were just aware of the fact that he had  
18 sent this one letter?

19 A That's correct.

20 Q So this fills in the blank?

21 A Correct.

22 Q Now this direct investment limitation,



1 would you consider that to be an important regulatory  
2 requirement for an Arkansas thrift?

3 A I am not a regulator. I was certainly not  
4 ever with FSLIC or the bank board. I would rely on  
5 the testimony of Mr. Clark who found it. I defer to  
6 him on that.

7 Q The purpose of this limitation was to limit  
8 the amount of risk that a thrift would bear in, among  
9 other things, real estate investments?

10 A Again, I believe that is something  
11 Mr. Clark testified to. I defer to him on that.

12 Q With regard to the representation of  
13 Madison by Rose with the Arkansas Securities  
14 Commission in connection with the Rose preferred  
15 stock offering, do the billing records eliminate your  
16 prior analysis in any way?

17 A Again, blanks were filled in.

18 Q Do you recall any of the specific blanks?

19 A We knew again who was doing what. When we  
20 interviewed Mr. Massey about that, he could recall  
21 very little, and he recalled very little involvement  
22 by anyone other than himself. The records indicate

1 additional involvement.

2 Q By other members of the Rose Law Firm?

3 A Yes.

4 Q Let's just turn to page DKS N 28943.

5 A Yes.

6 Q Why don't we turn to 28934 and we will just  
7 go through the bills in order. 28934 appears to be a  
8 bill for \$1700 for legal services rendered by Rose in  
9 connection with this preferred stock offering between  
10 April 23, '89.

11 A 34, I think the amount is \$2,018.

12 Q I'm sorry. I was looking at the last  
13 page. That's correct. \$2018. The last page  
14 indicates \$1700.

15 A Yes.

16 Q Did you have this document, 28934 to 36?

17 A No, we did not.

18 Q Is there anything significant in this  
19 particular document to your analysis?

20 A As I indicated earlier, and if I may back  
21 up, we did not do an analysis; we reported the  
22 facts. The investigative report is strictly a

1 recitation of facts which we issued to RTC so that it  
2 could take appropriate action.

3 Q It was up to the RTC to analyze the facts  
4 that you found?

5 A Yes.

6 Q Did you actually make judgments as to  
7 different facts?

8 A We report facts that we find.

9 Q You don't make any determinations with  
10 regard to which facts?

11 A No. For example, if we have one witness  
12 saying X occurred and another saying no, it did not,  
13 we report both. We report both interviews.

14 Q So you don't find facts?

15 A We are not a finder of fact, no.

16 Q A fact gatherer?

17 A That's correct, and that is what the report  
18 reflects. On this document, there is once again a  
19 breakdown, both by attorney and by nature of the work  
20 being done by that attorney, which we did not know  
21 before. Had we known it, we would have reported it.

22 Q Are there any specific facts that can be

1 gleaned from this invoice, 28934 to 36, that you  
2 would have highlighted in the report?

3 (Witness examined the document.)

4 A I believe our report focused on the work  
5 that we knew Mr. Massey had done. It also reported  
6 the references in the letters to Mrs. Clinton and  
7 letters to her. We reported those things. Had we  
8 known the material in here, we would have reported  
9 that, the telephone conferences between Mrs. Clinton  
10 and Mr. Massey, the conferences with Ms. Schaffer and  
11 Mrs. Clinton. We would have reported them as facts.

12 Q So, these billing records indicate greater  
13 involvement by Mrs. Clinton in the stock offering  
14 than -- strike that.

15 These billing records indicate that  
16 Mrs. Clinton had greater involvement in the stock  
17 offering than you believed when you issued your  
18 report on August 3, 1995?

19 A Yes.

20 Q And specifically, that would be greater  
21 telephone conferences with Mr. Massey, conferences  
22 with Mr. McDougal, review of the subscription

1 agreement by Mrs. Clinton and the actual telephone  
2 conference with Ms. Bassett?

3 A That indicates with more precision. We  
4 certainly did know before that there was some  
5 involvement because she was referenced in a letter.

6 Q But you didn't know, for example, that the  
7 time that was billed in connection with the telephone  
8 call with Ms. Bassett and telephone call with  
9 Mr. Massey on April 29, '85 was one hour?

10 A No, we didn't know those specifics.

11 Q That is an important piece of evidence to  
12 know the actual time of the call?

13 A Yes.

14 Q Now, if you look at page 28940, this is a  
15 billing memorandum of the Rose Law Firm. Have you  
16 found in reviewing these records that billing  
17 memoranda tend to be important pieces of evidence as  
18 opposed to the actual invoice?

19 A Yes, particularly where the billing  
20 memoranda break down what occurred and when.

21 Q And also the amount of time?

22 A Yes, the amount of time. Especially in

1 instances where there is a block bill that is issued,  
2 a block invoice which indicates nothing as to who did  
3 what or when, and even the standard invoices that are  
4 not blocked do not break down the time spent on a  
5 given activity.

6 Q It is important for your investigation to  
7 know how time was spent in terms of trying to  
8 ascertain the knowledge of the entire firm with  
9 regard to these activities?

10 A It is a relevant piece of information.

11 Q So you want to know, for example, how much  
12 partner time was spent and how much associate time  
13 was spent on a particular issue?

14 A That is relevant.

15 Q So, for example, with regard to the direct  
16 investment rule, if you are trying to ascribe  
17 knowledge on the part of the firm on a particular  
18 issue, i.e., the direct investment rule, the fact  
19 that a partner bills time to it is significant?

20 A Yes.

21 Q Rather than just a first- or second-year  
22 associate spending a lot of time on something?



1 A Yes, although you are getting into the area  
2 of imputation of knowledge to the law firm. If any  
3 member has knowledge, there is some argument as to  
4 imputation. It is a matter of strength of the  
5 argument.

6 Q Is the argument of imputation stronger when  
7 there is communication of information to a partner as  
8 opposed to an associate?

9 A I would defer to the analysis that is being  
10 done by the FDIC as RTC's successor as to the legal  
11 import of those things.

12 Q Do you have --

13 A I would -- as a reporter of fact, I would  
14 certainly report that so that they could analyze it.

15 Q You don't know whether it has any legal  
16 significance, whether information is to an associate  
17 as opposed to an associate and a partner for purposes  
18 of conflict analysis?

19 A I would consider that important.

20 Q Now, this page 28940 indicates that  
21 Mrs. Clinton billed five hours of time to this  
22 matter, and Mr. Massey looks like about 9.850.

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1 A We are reporters of fact.

2 Q It indicates that Mrs. Clinton had some  
3 role with regard to the preferred stock offering?

4 A It does.

5 Q And billed about half as much time as  
6 Mr. Massey to the stock offering?

7 A That's what it indicates.

8 Q You were operating under the assumption  
9 back on August 3rd '85 -- strike that. You were  
10 operating under the assumption based on the facts you  
11 were aware of as of the time you issued your report,  
12 August 3, 1995 that -- strike the whole question.

13 When you issued your report on August 3,  
14 1995, what did you believe to be the extent of  
15 Mrs. Clinton's work on the stock offering?

16 A We reported what we found, which was that  
17 the documentary evidence of communications was from  
18 Mr. Massey, although at least one letter went back to  
19 Mrs. Clinton. So some involvement was evident from  
20 that.

21 Mr. Massey's recollection that he was the  
22 primary attorney on it and that there was not much



1 involvement by Mrs. Clinton.

2 Q What would be your analysis now that you  
3 have had the opportunity to review the records?

4 A Again, we did not analyze. We would report  
5 the fact that there is more involvement than  
6 Mr. Massey appeared to recollect at that time.

7 Q In fact -- strike that.

8 Do you make any -- do you ascribe any  
9 significance to the fact that partners bill less on  
10 matters than associates, because the partner is  
11 normally the supervising attorney?

12 A I think that that is probably true. I am  
13 not following what you are getting at.

14 Q My point is that in your report of  
15 August 3, 1985 -- 1995, the lion's share of the work  
16 on this matter was being done by Mr. Massey; correct?

17 A Correct.

18 Q And in view of these billing records, it  
19 appears that Mrs. Clinton had a significant role with  
20 regard to this matter?

21 A That is correct.

22 Q And that Mr. Massey billed nine hours and

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1 Mrs. Clinton billed five hours, and Mrs. Clinton was  
2 a partner, as a factual matter it would appear that  
3 Mrs. Clinton bore a substantial amount of the labor  
4 inured on this preferred stock offering, at least as  
5 reflected in the billing records,

6 MR. PORTNOY: I believe the billing records  
7 speak for themselves.

8 MR. GIUFFRA: She is represented by  
9 counsel. You don't have to inject every five  
10 seconds.

11 THE WITNESS: This is a fact that we would  
12 have reported to RTC for its evaluation.

13 BY MR. GIUFFRA:

14 Q The fact of the greater involvement by  
15 Mrs. Clinton, a partner in the Rose Law Firm?

16 A Yes, the fact of the amount of her  
17 involvement.

18 Q Let's go to DKS 28928 to 32. It is the  
19 very beginning.

20 A Yes.

21 Q This is a client billing and payment  
22 history.

1 A Yes.

2 Q You did not have this when you issued your  
3 report?

4 A I did not.

5 Q Is there anything significant in this  
6 document?

7 A This document is a document which reflects  
8 who the billing partner is for all of the work done  
9 by Madison.

10 Q Was that an issue about which you had some  
11 question?

12 A There was some question as to that. There  
13 was some -- there was a document that we had that was  
14 a handwritten document opening matter number 5 IDC  
15 which had billing code number 42 on it. That code  
16 was a code which designated the billing partner.

17 Q That would be Webster Hubbell.

18 A That was Mr. Hubbell's code. We asked  
19 Mr. Hubbell if he was a billing partner, and he said  
20 no, he was not. But we reported that, and there were  
21 conflicting pieces of evidence on that. The fact was  
22 that there was a handwritten notation that indicated

1 Mr. Hubbell was the billing partner. We did not have  
2 this, which indicates that Mrs. Clinton was.

3 Q The billing partner for the IDC matter?

4 A That is correct.

5 Q Is there anything else significant on this  
6 particular document, 28928 to 28931?

7 A To the extent that this document and others  
8 reflect amounts and to the extent of billing, to the  
9 extent that that is relevant to our analysis, I would  
10 prefer to defer to Mr. Switzer, who you will depose  
11 this afternoon. He is the auditor --

12 Q That's on the audit question.

13 A As an auditor, he also is analyzing these  
14 numbers.

15 Q To see whether there was overbilling or  
16 just to analyze them?

17 A To analyze them and see what he finds.

18 Q The extent of the billing is a proxy for  
19 the extent of the work by the firm for Madison?

20 A Yes.

21 Q Let's go through. Did you have this  
22 document, 28933? We will just go through them in

1 order. That may be the fastest way to do this.

2 A No.

3 Q Did you -- do you ascribe any significance  
4 to this document?

5 A This is a document indicating -- a nearly  
6 illegible document, I might add, indicating work that  
7 had been done for the Bank of Kingston. We knew that  
8 there had been work done by the Rose Law Firm.  
9 Again, we did not know how much. We probably would  
10 have reported that.

11 Q The fact that the total fees were \$13,000?

12 A Were there were a couple of numbers here.  
13 One indicates 13,060. Another is 14,266. I'm not  
14 sure what the significance of that is.

15 Q Does this document indicate to you greater  
16 involvement by Rose with regard to the Bank of  
17 Kingston?

18 A As I said, we knew there was involvement.  
19 We didn't know the extent. I don't think we made any  
20 particular judgment as to that.

21 Q Does the handwritten note, "HRC, I believe  
22 there was a subsequent bill" have any relevance to

1 your investigation?

2 A It would indicate that there was work  
3 beyond this that was done.

4 Q What about the fact that someone had been  
5 reviewing these records? Let me strike that.

6 You don't have a copy of the actual  
7 documents as they were found, but if I were to tell  
8 you that that notation "HRC, I believe there was a  
9 subsequent bill" is in red ink and the rest of the  
10 document was a copy, would you ascribe any  
11 significance to that fact?

12 A Our investigation was of the conflict. I  
13 understand that is of concern and import to the  
14 committee. Our investigation was of the conflicts.

15 Q Okay. Let's go to 28942 -- one quick  
16 question before we go too quickly.

17 Let's go to 28940.

18 A Yes.

19 Q This document indicates Mrs. Clinton spoke  
20 with Ms. Bassett on 4/29/85. Did you know in your  
21 report when Mrs. Clinton had spoken to Ms. Bassett?

22 A No, I don't believe we did.

1 Q The fact that the Rose Law Firm sent a  
2 letter the next day, 4/30/85, to the Arkansas  
3 Securities Commission setting forth arguments for why  
4 Madison should be able to issue preferred stock, is  
5 that -- does that fact have any --

6 A Again, it is a fact that we would have  
7 reported.

8 Q The fact that the call was followed by a  
9 letter providing --

10 A We would have indicated that.

11 Q Is there any factual significance you can  
12 draw from the fact that the call was followed one day  
13 later by a letter setting forth the reasons why  
14 Madison should be able to issue preferred stock?

15 MR. PORTNOY: In any sense, Bob, or with  
16 respect to a conflicts investigation?

17 MR. GIUFFRA: We will deal with respect to  
18 a conflicts investigation.

19 THE WITNESS: We would have reported the  
20 fact for the RTC to deal with.

21 BY MR. GIUFFRA:

22 Q Could the fact that Mrs. Clinton spoke to

1 Mrs. Schaffer the day before the firm sent a letter,  
2 would that be material to a conflicts investigation?

3 A I would have to think about that for a  
4 while. The fact that there was contact is a  
5 reportable fact. I'm not sure how much significance  
6 from a conflicts standpoint the timing assumes.

7 Q But that is a fact you would have reported?

8 A Yes.

9 Q Let's go to 28942. This is an entry  
10 "limited partnership." Were you aware of the  
11 limited partnership aspect of Rose's representation  
12 of Madison at the time you did your report on August  
13 3, 1995?

14 A That is the issue that we knew of as the  
15 broker-dealer matter. It is reported somewhat  
16 differently here, but it is the same thing.

17 Q Would your factual discussion in your  
18 report be different in light of this billing record?  
19 Just more detailed?

20 A More detailed.

21 Q Greater involvement by Mrs. Clinton? Did  
22 you believe Mrs. Clinton to have any involvement with



1 regard to the broker-dealer matter?

2 A I think it was similar to the securities  
3 issue, that there was minimal involvement, and these  
4 records indicate a somewhat greater involvement,  
5 which we would have reported.

6 Q Let's go to 28949.

7 A Yes.

8 Q This document also reflects more  
9 communications with Mrs. Clinton and Mr. Massey with  
10 regard to this broker-dealer issue; correct?

11 A It does.

12 Q And it also reflects a conference between  
13 Mr. Massey and Mr. Handley; correct?

14 A Yes.

15 Q And, again, the amount of time,  
16 particularly with regard to the drafting of the  
17 application, might have some bearing on the direct  
18 investment rule issue?

19 A It might have some bearing. I note,  
20 however, that that particular entry occurred prior to  
21 the actual notice by --

22 Q By Handley?

1 A By Handley of the rule. That is a  
2 significant event.

3 MR. GIBSON: I'm sorry. You mean the  
4 notice is a significant event?

5 THE WITNESS: Yes.

6 BY MR. GIUFFRA:

7 Q Why is the notice -- strike that.  
8 Mr. Handley notifies the Rose Law Firm of the  
9 district investment rule issue on May 22, '85;  
10 correct?

11 A Correct.

12 Q Why is that a significant notification for  
13 purposes of your conflict analysis?

14 A The fact of notice and the fact that it  
15 predated the IDC closing is of some import.

16 Q Why is it of some import?

17 A In analyzing potential, actual -- actual or  
18 potential conflicts that the Rose Law Firm might have  
19 had with regard to its subsequent representation of  
20 the RTC in connection with the litigation by RTC  
21 against Frost, the IDC transaction is important.

22 The Frost litigation in terms -- when doing

1 damage analysis for the Frost litigation, a loan to  
2 Mr. Ward was included in the damage calculations and  
3 certainly affected the litigation.

4 Q In fact, Rose decided not to include it in  
5 the damage calculation; correct?

6 A Rose and the RTC.

7 In addition, the general issue underlying  
8 the Frost litigation was the degree to which Frost  
9 was responsible, liable for the losses incurred when  
10 Madison Guaranty failed.

11 There, one of their defenses was that  
12 insider transactions caused that institution to fail,  
13 and it would not have mattered what the institution's  
14 accountant told the institution because the insiders  
15 were going to do what they wanted to do anyway.

16 Rose was the law firm representing the RTC  
17 in refuting that defense. Under conflicts rules, and  
18 again we were looking at conflicts, if the lawyer's  
19 own conduct can become an issue in the case, a  
20 conflicts problem arises.

21 In this instance, that was a possibility  
22 because Rose had been involved in the IDC matter on

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1 which losses, because of insider dealing, were  
2 sustained by the institution. That fact is  
3 reportable, at a minimum is reportable to the RTC.

4 Q It would be a significant fact?

5 A It was a significant fact. And that was  
6 never disclosed by Rose. Again, we were doing a  
7 conflicts investigation.

8 Q Basically, the issue would be the failure  
9 of Rose in connection with the IDC investigation to  
10 flag the direct investment rule when they knew of the  
11 direct investment rule from the stock offering raises  
12 an issue for purposes of the conflicts analysis;  
13 correct?

14 A That is an issue which is raised. The very  
15 participation is an issue which is disclosable.

16 Q The very participation by Rose in the IDC  
17 transaction?

18 A Yes.

19 Q But then --

20 A Even if they knew nothing.

21 Q From the billing records, you were able to  
22 see that the knowledge of Rose with regard to the

1 direct investment rule is greater than you thought it  
2 was as of August 3, 1995; correct?

3 A That is correct. When I say that the very  
4 participation I believe is reportable to the RTC,  
5 that is because the RTC requires reporting not only  
6 of any actual conflicts but any potential conflicts.  
7 They had a very clear and very extensive policy of  
8 full disclosure.

9 Q Wouldn't it be an actual conflict if a law  
10 firm had knowledge of a regulatory requirement and  
11 was involved in a transaction in which the  
12 transaction was structured to evade that requirement  
13 and then was involved in suing the accounting firm  
14 that had audited the transaction?

15 A Again, we reported the facts. We did not  
16 and it was not our purpose to conclude on them. I  
17 believe RTC has a report from Pillsbury, Madison  
18 which doesn't discuss these billing records but  
19 discusses the potential conflicts and actual  
20 conflicts.

21 Q Have you reviewed the Pillsbury, Madison  
22 report on the Rose Law Firm?

1 A I am not sure how many are out there.

2 Q Let me just show you a particular -- we  
3 have one right here. Have you reviewed a report on  
4 the representation of Madison Guaranty Savings & Loan  
5 by the Rose Law Firm prepared for the RTC by  
6 Pillsbury, Madison dated December 28, 1995?

7 (Witness examined the document.)

8 A Yes, I have seen this. I have also seen  
9 one on -- the report by Pillsbury on the Frost  
10 litigation itself, and that one discusses conflicts.

11 Q That would be the report dated December 28,  
12 1995, the report on the Rose Law Firm's conduct of  
13 accounting malpractice litigation pertaining to  
14 Madison Savings & Loan by Pillsbury.

15 A Yes.

16 Q You would think after reviewing both of  
17 those reports that these billing records might --  
18 strike that.

19 Pillsbury was relying in part upon your  
20 factual analysis in doing its report?

21 A Yes.

22 Q Am I right that Pillsbury wasn't rely --

1 they were relying almost exclusively on you guys?

2 A The Frost report relied extremely heavily  
3 on our report and I believe was generated -- it says  
4 it was generated as a result of our recommendation  
5 that they review our -- that RTC legal had their  
6 outside counsel review our work.

7 Q The longer report which is just on the Rose  
8 Law Firm representation, that relied in part on your  
9 work?

10 A Yes. Our report was certainly cited on a  
11 number of occasions in that report as well.

12 Q Therefore, you think both of those reports  
13 are incomplete to the extent that they don't reflect  
14 the information contained in these billing records?

15 A That is correct.

16 Q And that might well change the analysis  
17 contained in those reports?

18 A I would defer to Pillsbury on that.

19 Q Going back to 28949, this just indicates  
20 the extent of the involvement by Rose in the  
21 broker-dealer transaction. This indicates further  
22 the extent of the involvement by Rose in the

1 broker-dealer transaction; correct?

2 A Yes, it does.

3 Q And also indicates that Mr. Massey was not  
4 the only lawyer involved?

5 A That is correct.

6 Q That Mrs. Clinton had billed a half hour to  
7 this transaction, at least at this particular point  
8 in time?

9 A That's correct.

10 Q Let me show you page 28955 through 57.  
11 This is a July 15, '85 bill. You didn't have a copy  
12 of this bill when you prepared your report; right?

13 A No, we did not.

14 MR. GIUFFRA: Off the record.

15 (Discussion off the record.)

16 BY MR. GIUFFRA:

17 Q Is there anything significant about this  
18 page, 28955, that we haven't already discussed? This  
19 is just another way of formatting the bill.

20 A That is correct. It is just another -- it  
21 is the bill that was formatted from the billing  
22 memorandum which we already discussed.



1 Q With regard to 28962, the bottom entry,  
2 this indicates that Mr. Massey actually was aware of  
3 the direct investment rule at the time, the 7/1/85  
4 entry; correct?

5 A The 7/1/85?

6 Q Yes, the last entry.

7 A Not necessarily. That seems to be  
8 referring to the federal -- there were two direct  
9 investment rules that were at issue here. That one  
10 appears to refer to the federal rule, which was  
11 different than the 6 percent limitation.

12 Q I see.

13 A There were two things -- there were three  
14 things at issue in Mr. Handley's May 22nd and a  
15 subsequent June 18 memoranda. One was the 6 percent  
16 direct investment rule. That was an Arkansas state  
17 rule.

18 Two was a question of prior supervisory  
19 agent approval for investments of an institution,  
20 specified investments, the supervisory bulletin,  
21 there is reference there for an institution that is  
22 below the minimum net worth requirement. And then

1 there is the federal direct investment rule.

2 Q Am I correct that -- do you know whether as  
3 a factual matter -- strike that.

4 So, it is not only the Arkansas 6 percent  
5 limitation that is at issue in the IDC transaction  
6 but there is also a federal direct investment rule  
7 that is at issue?

8 A The supervisory bulletin I would think is  
9 at issue, the prior supervisory approval that  
10 Mr. Handley says is required. I do not know whether  
11 the federal direct investment rule was actually at  
12 issue. It was raised.

13 If I may refer to the June 18, 1985  
14 memorandum from Mr. Handley to Beverly Bassett and  
15 Nancy Jones. You just picked up what was left of my  
16 documents. You need -- I don't know where your copy  
17 went.

18 The second page, numbered item 3 discusses  
19 the minimum net worth requirements of the bank  
20 board's regs. The second paragraph of that  
21 references supervisory bulletin S 85-60 from the Home  
22 Loan Bank Board of Dallas which sets forth the

1 regulatory requirements to meet the regulatory net  
2 worth requirement. "One of the regulatory  
3 consequences which is set forth in this bulletin is,"  
4 and there follows a quote from the bulletin itself  
5 "an insured institution cannot make direct  
6 investments in secured corporations, operating  
7 subsidiary, equity security," and my copy is cut off,  
8 so I don't know how that word ends, "or real estate  
9 without prior written approval of the principal  
10 supervisory agent."

11 Q Is that the second page?

12 A Yes.

13 Q This document, which bears Bates number RIC  
14 039, indicates at least a knowledge of a federal  
15 direct investment issue by Mr. Massey.

16 A And the prior approval requirement.  
17 Mr. Massey responds to that in his July 10, '85  
18 letter to Beverly Bassett and Nancy Jones and Charles  
19 Handley at the ASC. The way he addresses it, he  
20 takes issue with whether the federal requirement is  
21 triggered with regard to the acquisition of the  
22 broker-dealer operation.

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1 Q Do you know whether the federal direct  
2 investment rule would have been triggered in  
3 connection with the IDC transaction?

4 A I do not know. I do not think it was,  
5 though.

6 Q Let's turn to page 28979 to 80. Actually,  
7 let's just stick with 28979. This is a November 20,  
8 '85 bill relate to the IDC matter. Did you have a  
9 copy of this bill?

10 A No, we did not.

11 Q What if any significance do you ascribe to  
12 this particular bill?

13 MR. GIBSON: What page number?

14 MR. GIUFFRA: 28979.

15 THE WITNESS: I was looking at the wrong  
16 document. Let me look for the next one.

17 (Witness examined the document.)

18 No, we did not have this one.

19 This document indicates the work being  
20 performed by Mr. Thrash on IDC matter number 5 for  
21 the Rose Law Firm. He was reviewing the contract for  
22 sale and so forth. It sets out various

1 descriptions.

2 Now, we had some knowledge of this because  
3 these -- at least some of these descriptions, perhaps  
4 not all of them -- I would have to make the  
5 comparison -- but some of these descriptions I know  
6 review contract for sale reflected in the January  
7 invoice. To the extent these are reflected there, we  
8 were aware of work being performed.

9 BY MR. GIUFFRA:

10 Q This bill at least indicates to you the  
11 dates on which work was performed by Mr. Thrash?

12 A That's correct.

13 Q In fact, these billing records can be used  
14 to correspond with the various drafts of the sales  
15 agreement?

16 A That's correct.

17 Q Did you have drafts of the sales agreement  
18 when you did your report?

19 A Yes. I had at least some.

20 Q You are aware of the issue with regard to  
21 the assignment clause?

22 A Yes.

1 Q By looking at these billing entries and  
2 looking at the drafts, you can see perhaps what might  
3 have motivated the change with regard to the  
4 assignment clause?

5 A Or the timing thereof, yes.

6 Q Particularly with regard to communication  
7 with Mr. Ward; is that right?

8 A Yes, there is communication with Mr. Ward.

9 Q Now, the extent of Mr. Ward's involvement  
10 in the IDC transaction, was that a significant issue  
11 for the purposes of your conflicts analysis?

12 A Yes.

13 Q Why was that significant?

14 A Again, Mr. Ward's loan was one of the loans  
15 that entered into the damage calculation in the Frost  
16 lawsuit.

17 Q Mr. Ward was related to Mr. Hubbell?

18 A Yes, he was.

19 Q There was also an issue as to whether Rose  
20 represented Ward in connection with this IDC  
21 transaction?

22 A Yes, there was.

1 Q In fact, whether it represented both  
2 Madison and Mr. Ward?

3 A That was an issue, yes.

4 Q Did you reach any conclusion?

5 A Once again, we reported what was said about  
6 that by people we interviewed.

7 Q What was said about that? What was said  
8 about the question of whether Rose represented both  
9 Mr. Ward and Madison in connection with the IDC  
10 transaction?

11 A I need to refer back to our report.

12 Q Take your time.

13 MR. GIUFFRA: Off the record.

14 (Discussion off the record.)

15 THE WITNESS: The issue of the degree of  
16 representation, if any, of Rose -- by Rose of  
17 Mr. Ward arose in connection with our investigation.  
18 It was something on which Mr. Hubbell had made a  
19 representation to the RTC attorney in charge of the  
20 case with respect to his own personal potential  
21 conflicts, the question of Mr. Ward being his  
22 father-in-law, the question of his involvement in the

1 litigation of Madison, Ward v Madison, which was a  
2 piece of state court litigation involving commissions  
3 Mr. Ward said he was owed, and this investigation  
4 prior to federal takeover of the institution,  
5 although the RTC inherited the appeal, because  
6 Madison lost that case and then RTC intervened and  
7 pursued a new trial and ultimately settled the case.

8 The degree of involvement with Rose by  
9 Mr. Ward was of some import to our investigation and  
10 to RTC's conflict analysis. We reported what  
11 Mr. Hubbell had to say about that, which was that he  
12 did not represent Mr. Ward in the Madison -- Ward v  
13 Madison litigation. We reported facts that we  
14 derived that we found, discovered concerning a letter  
15 that had been backdated.

16 BY MR. GIUFFRA:

17 Q This is a September 24 --

18 A September 24th, yes. That's the date that  
19 is on there. The parties agree that it was  
20 backdated. But we were not able to find --

21 Q When Mr. Hubbell -- Mr. Hubbell advised you  
22 that he did not draft that letter?



1 A Mr. Hubbell advised us he did not draft  
2 that letter. We interviewed Mr. Hubbell's secretary,  
3 who indicated that she might well have typed it.

4 Q Because the formatting was the same?

5 A Yes, and the type appeared to be the same  
6 as the typewriter she used at that time.

7 Q What is the significance of that? Let's  
8 get it out.

9 A We also reported a note that Mr. McDougal  
10 sent to Jim Guy Tucker concerning the --

11 Q Legal opinion?

12 A The legal opinion that transmitted an  
13 opinion that had been sent to him by Mrs. Clinton and  
14 stated Seth Ward's lawyer.

15 Q SW 1 to SW 107.

16 A This is the agreement, a letter signed by  
17 Ward and acknowledged and accepted over the signature  
18 of James McDougal, which purports to set forth the  
19 terms of the agreement between Mr. Ward and Madison  
20 concerning the acquisition of the IDC property.

21 There was a previous September 24 letter,  
22 and that one appears to have been signed on September

---

1 24th, as opposed to this one, which was not.

2 The previous one differs from this one.

3 The substantive differences are that Madison Guaranty  
4 is to pay \$35,000 to Mr. Ward for -- in order to have  
5 this option.

6 Q \$35,000; is that right?

7 A \$35,000, yes. "Madison Guaranty will pay  
8 \$35,000 to me to have an option of at least to  
9 purchase the property from me at any time, in whole  
10 or in part, for at least the pro rata amount of the  
11 note. This is the second distinction, except for one  
12 parcel described as follows," and there is a  
13 description of a 22-1/2-acre parcel which has become  
14 known as Holman Acres.

15 Q The significance of the fact of -- if it  
16 could be shown that -- let's go back. The first  
17 September 24 letter did not appear to be drafted by a  
18 lawyer; is that correct?

19 A It did not appear to.

20 Q This appears to be what is drafted by a  
21 lawyer?

22 A This one has certain earmarks which I would

1 expect came from a lawyer, yes.

2 Q The question is whether this was drafted by  
3 Mr. Hubbell or by someone else in the Rose Law Firm.

4 A Or elsewhere.

5 Q What would be the significance of the fact,  
6 for purposes of your conflict analysis, if someone in  
7 the Rose Law Firm drafted this second September 24  
8 letter?

9 A This 22-1/2-acre parcel became the security  
10 for a subsequent loan by Madison to Mr. Ward, and  
11 that became a part of the Ward v Madison litigation.  
12 That was also related to a note that Madison  
13 Financial made to Ward which indicated that Madison  
14 Financial owed Mr. Ward \$300,000.

15 All of these things were of some import in  
16 the Ward v Madison litigation.

17 MR. GIBSON: Let me ask a clarifying  
18 question here, if I may. You are answering the  
19 question about the significance of this document  
20 based on the assumption that someone at Rose drafted  
21 it. Do you have any knowledge that anybody at Rose  
22 drafted that document?

1 THE WITNESS: I do not. All we have is the  
2 statement from the secretary that she may have typed  
3 it.

4 MR. GIBSON: I just want to clarify for the  
5 record that your answer is based on that assumption  
6 that Mr. Giuffra is asking you to assume in answering  
7 the question.

8 THE WITNESS: Yes. The fact -- the  
9 question of involvement by the Rose Law Firm in  
10 representing Mr. Ward was important to the RTC. They  
11 had concern about that.

12 BY MR. GIUFFRA:

13 Q Obviously the greater the extent you can  
14 show -- you did not know at the time you issued your  
15 report in August of 1995 the extent to which there  
16 had been communications between Madison -- between  
17 Rose lawyers and Mr. Ward; right?

18 A That is correct.

19 Q These billing records indicate there was  
20 some substantial communication between Mr. Ward and  
21 Rose lawyers?

22 A They do indicate that.

1 Q And you were completely unaware of that  
2 fact at the time you issued your report?

3 A We were -- there was some indication of at  
4 least some communication. The note that I mentioned  
5 before, Seth Ward's lawyer sent him that, would  
6 indicate that Mr. McDougal thought there had been  
7 some communication.

8 Q That is just the single handwritten --

9 A That is correct.

10 Q -- note involving the wet/dry issue?

11 MR. PORTNOY: If I might take you up on  
12 your invitation, the record before you did indicate  
13 that Mr. Ward was involved in negotiations, didn't  
14 it?

15 THE WITNESS: What negotiations? I'm  
16 sorry?

17 MR. PORTNOY: Between Madison Guaranty and  
18 IDC, the acquisition of the IDC property.

19 THE WITNESS: Yes. He was clearly involved  
20 in that.

21 BY MR. GIUFFRA:

22 Q But his interactions with the Rose Law

1 Firm, that was something you did not know about?

2 A That's correct.

3 MR. PORTNOY: You knew that he was involved  
4 in the acquisition negotiations and you knew that the  
5 Rose Law Firm was representing Madison in some  
6 measure in connection with the acquisition; is that  
7 correct?

8 THE WITNESS: Yes.

9 MR. PORTNOY: But you didn't know the  
10 specifics of his interaction with the Rose Law Firm?

11 MR. GIBSON: If I can interject with a  
12 clarifying question here, too. Which interactions  
13 are we talking about? Are we talking about Seth  
14 Ward's interactions with the Rose Law Firm in August  
15 or September, or are you talking about Seth Ward's  
16 interactions with the Rose Law Firm subsequent to  
17 that period of time from November, December, January  
18 and forward? Which interactions are we talking  
19 about?

20 MR. GIUFFRA: I was talking about both,  
21 just in general trying to speed this up.

22 BY MR. GIUFFRA:



1 Q First of all, these billing records  
2 indicate that during the time the transaction was  
3 being consummated, i.e. the sale of the IDC property  
4 to Madison, that Mr. Ward was someone with whom a  
5 Rose Law Firm attorney, Mr. Thrash, was  
6 communicating?

7 A Those documents do indicate that. We also  
8 did know that Mr. Ward was involved with the first  
9 IDC purchase and that Rose represented Madison with  
10 regard to that purchase.

11 Q The significance of the September 24 letter  
12 is that that indicates that at least whoever reviewed  
13 it was aware of Ward's arrangements with Madison?

14 A The significance of this letter, clearly  
15 the persons preparing it would know of Ward's  
16 arrangements with Madison. It also became a critical  
17 piece of evidence in the Ward v Madison litigation  
18 itself, which RTC was pursuing at the same time that  
19 the Frost litigation was going on.

20 Q Why was the September 24, '85 a critical  
21 piece of evidence in the Ward v Madison litigation?

22 A It was the exception of the 22-1/2-acre

1 parcel -- that was all -- that 22-1/2-acre parcel,  
2 Holman Acres, was all that was left over when the IDC  
3 property had been transferred, sold at the end of  
4 February, February 28th, I think was the Castle Water  
5 and Sewer sale. That left Mr. Ward holding a  
6 22-1/2-acre parcel.

7 This letter sets forth an arrangement  
8 concerning the potential disposition of that parcel  
9 separate and distinct from all the other land that  
10 existed. It excepts it from that transaction.

11 Madison, under this document, has no option  
12 to purchase this parcel. This parcel became security  
13 for a \$400,000 payment, the land was mortgaged on a  
14 \$400,000 payment to Mr. Ward. This parcel also  
15 became the subject of a May 1 option agreement.

16 Q You did not have a copy of the option  
17 agreement at the time you wrote your report?

18 A No, we did not.

19 Q Do you consider the option agreement to be  
20 an important piece of evidence?

21 A Let me back up. We may have had a copy of  
22 that option agreement as a part of the record in the



1 Madison v -- Ward v Madison litigation. I believe we  
2 did have that.

3 Q Were you aware at the time -- this is S  
4 11 -- SW 170 through '74.

5 A We did have that.

6 Q Were you aware this was drafted on  
7 Mrs. Clinton's computer at the time you wrote your  
8 report?

9 A No, we were not.

10 Q No one knew who drafted this agreement?

11 A No.

12 Q Obviously the fact that it was drafted at  
13 the Rose Law Firm was relevant to your conflicts  
14 analysis?

15 A Yes.

16 Q Why would it be relevant to your conflicts  
17 analysis, the fact that it was drafted at the Rose  
18 Law Firm?

19 A Once again, that was a fact that was at  
20 issue in the Ward v Madison litigation. Mr. Latham  
21 indicated, it was his testimony in that litigation  
22 that the May 1 option agreement was intended to

1 supersede both the \$300,000 note from Ward to Madison  
2 Financial and the \$400,000 note from Madison Guaranty  
3 to Ward.

4 The option agreement he described as more  
5 accurately reflecting the transaction that the  
6 parties intended to agree to but in their haste to  
7 get the documents in place had not in fact agreed to,  
8 on paper anyway, back in late March and early April.

9 That was a defense. That was the primary  
10 defense and perhaps the only defense which the  
11 institution, Madison Guaranty, set forth in the Ward  
12 v Madison litigation. Mr. Ward said no, the option  
13 agreement was not intended to replace the \$300,000  
14 note, and therefore you owe me \$300,000. He didn't  
15 know -- he testified that he didn't know why Madison  
16 wanted the option, but they gave him a thousand  
17 dollars to execute it, so he did.

18 That was a central fact in that  
19 litigation.

20 Q And the fact that it was known at the time  
21 that Rose Law Firm lawyers had been involved in  
22 drafting the option, that would be a significant fact

1 for your conflicts analysis?

2 A The timing?

3 Q No, the fact that they were involved in  
4 drafting the option.

5 A Yes.

6 Q That is something that is disclosed in the  
7 billing records?

8 A That's correct.

9 Q We have the conferences with Thrash and  
10 Ward which were significant, showing greater  
11 involvement by Madison -- by Rose and Ward on this  
12 transaction.

13 A It shows the specifics of involvement that  
14 we did not know.

15 Q If you look at 29000 -- why don't you turn  
16 to 28997, actually.

17 A Yes.

18 Q This bill indicates telephone  
19 communications between Madison and Seth Ward as well  
20 as conferences with Daryl Dover. This appears to be  
21 time that should have been billed to the IDC  
22 transaction; correct?

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1 A Mr. Dover was IDC's attorney. So, that  
2 would appear to relate to IDC.

3 Q Let's turn to 29002.

4 A Yes.

5 Q You have reviewed this page of the billing  
6 memorandum; correct?

7 A Correct.

8 Q Let's just turn to a couple things. The  
9 fact that this is billed to stock offering, we have  
10 an entry on 11/26/85, Mrs. Clinton for an hour,  
11 "conference with Seth Ward, conference with Thrash,  
12 conference with Hubbell." Does that have any bearing  
13 on your conflicts analysis?

14 A Well, Mr. Thrash dealt, as far as we know,  
15 dealt only with IDC.

16 Q We have no reason to think that Mr. Ward  
17 had any involvement with regard to the stock  
18 offering?

19 A No, not that I can recall. I don't believe  
20 so. And Mr. Hubbell is involved in the conference  
21 which would have been a factor that we would report.

22 Q Why would you have reported this fact?

1 A Mr. Hubbell was RTC's attorney on -- lead  
2 attorney, outside counsel on the Frost litigation.  
3 He had indicated that he did not represent Mr. Ward  
4 in anything related to his conflicts with Madison.

5 While this does not by any means prove that  
6 he did so, it indicates a contact which might be  
7 important to RTC in conducting its review of this  
8 matter, and we would have reported it.

9 Q Did Hubbell say anything about whether he  
10 had personally done any work for Madison in '85 and  
11 '86?

12 A I would need to refer back to his  
13 interview.

14 MR. GIBSON: Off the record.

15 (Discussion off the record.)

16 THE WITNESS: I would need to look back at  
17 that interview --

18 BY MR. GIUFFRA:

19 Q What Hubbell said. Turn to 29008.

20 A Yes.

21 Q This is a billing memorandum for the  
22 general account. This indicates conference with Seth

1 Ward regarding purchase with Brook Lyle. Do you know  
2 who Brook Lyle was?

3 A Brook Lyle was an officer, I believe the  
4 president of IDC.

5 Q So, would this communication conference  
6 with Seth Ward regarding purchase of Brook Lyle by  
7 Mrs. Clinton be a reportable fact?

8 A This was another indicator of the degree of  
9 involvement on the IDC purchase.

10 Q As opposed to the wet/dry issue?

11 A Yes. I was asked in my testimony in the  
12 House whether Mrs. Clinton had any involvement with  
13 the IDC purchase, and I answered no, she did not,  
14 except for the wet/dry issue and the Castle Water and  
15 Sewer issue which arose subsequent to the purchase.

16 This is also subsequent to the purchase.  
17 It is on 11/14/85, but it indicates some involvement  
18 or questions about that purchase that we did not know  
19 before. I would not have answered that question that  
20 way had I known.

21 Q In fact, do you recall testifying at the  
22 House "we have no evidence that Mrs. Clinton worked

1 on Castle Grande"?

2 A That's what I said.

3 Q You would want to amend that answer in view  
4 of these billing records?

5 A Yes, I would.

6 Q How would you want to amend your answer  
7 with regard to the extent of Mrs. Clinton's work on  
8 the Castle Grande matter?

9 A I still do not know the extent of her work,  
10 if any, during the period of September, October,  
11 November -- well, September and October. I know  
12 there was some work in November. We do not have  
13 still the billing memoranda for Madison, IDC and  
14 matter number 5, which might indicate that, but that  
15 is not a part of this. I only know about the  
16 involvement on the 14th because we have the general  
17 matter, matter number 4, general bill. This entry  
18 clearly relates back to IDC.

19 In addition, there was subsequent  
20 involvement on the option agreement.

21 Q By Mrs. Clinton?

22 A Yes, that I did not know about at the time

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1 I testified last summer.

2 MR. GIUFFRA: Do you want to break now?

3 MR. PORTNOY: Let me ask one question.

4 Does anything in this billing record indicate to you  
5 that Mrs. Clinton had any involvement prior to the  
6 closing?

7 THE WITNESS: This billing record is dated  
8 in November, so no, it indicates -- it indicates a  
9 conversation on November 14th. I don't know what  
10 occurred before then because we don't have those  
11 billing memoranda, if anything.

12 BY MR. GIUFFRA:

13 Q Is it also a problem with -- the January 30  
14 bill is the bill we know was sent out for the  
15 September and October work. They were rolled into  
16 that?

17 A That's what Mr. Clark of the Rose Law Firm  
18 testified to, yes.

19 Q Mr. Clark also testified that Mrs. Clinton  
20 has some 14-1/2 hours that are unaccounted for, we  
21 don't know what she did and when she did it in  
22 connection with IDC.



1 A I have seen the billing memorandum in which  
2 there is a handwritten change. I believe Mr. Clark  
3 indicated that he thought that was additional  
4 billable hours.

5 Q We don't know when that time was billed?

6 A No, we do not.

7 Q We don't know what she did?

8 A No, we don't.

9 Q That raises a question as to whether  
10 Mrs. Clinton was involved in the acquisition of the  
11 property?

12 A It raises a question as to what was done  
13 and when. The step you took is an additional one  
14 that I can't take.

15 MR. GIUFFRA: Let's take our break now.

16 (Whereupon, at 1:05 p.m., the deposition  
17 was recessed, to be reconvened at 1:55 p.m. this same  
18 day.)  
19  
20  
21  
22

1 AFTERNOON SESSION (1:55 p.m.)

2 Whereupon,

3 PATRICIA M. BLACK

4 resumed the stand and, having been previously duly  
5 sworn, was examined and testified further as follows:

6 EXAMINATION (Continued)

7 BY MR. GIUFFRA:

8 Q Ms. Black, in preparing your factual  
9 summary, you were seeking to elucidate facts that  
10 were material to the RTC's conflict inquiry with  
11 regard to the Rose Law Firm?

12 A We set forth those facts which we thought  
13 would be material in a summary fashion, yes.

14 Q So, there is a judgment that you need to  
15 make with regard to the materiality of a particular  
16 fact to a conflicts examination by the RTC?

17 A Well, when one sifts through an  
18 investigation, and particularly an investigation like  
19 this, which was lengthy and document-intensive, one  
20 obviously sifts through a lot of information. Yes,  
21 some judgment has to be exercised as to what you pull  
22 out in the way of relevant information. The fact

1 that we make the judgment -- in essence, the judgment  
2 we are making is what we think this will represent to  
3 the decisionmaker. That does not mean that we are  
4 right.

5 Q For example, the fact that Web Hubbell had  
6 conferences with Mrs. Clinton and Mr. Ward as denoted  
7 in these billing records, do you think that would  
8 have been a material fact for the conflicts analysis?

9 A We definitely would have reported it.

10 Q Why would you have definitely reported  
11 these communications with Mr. Hubbell and Mr. Ward  
12 and Mrs. Clinton?

13 A RTC and various individuals with RTC during  
14 the course of the Frost litigation had expressed a  
15 concern about Mr. Hubbell and his connection with  
16 Mr. Ward.

17 RTC in fact sought and obtained assurances  
18 by Mr. Hubbell that he was not involved particularly  
19 in the litigation with Ward v Madison, but more  
20 generally I believe his representation was with  
21 regard to his disputes, that is, Mr. Hubbell's  
22 representation was that Mr. Hubbell did not represent

1 Mr. Ward in Mr. Ward's disputes with Madison.

2 To the degree that these records indicated  
3 conversations between Mr. Ward and Hubbell and  
4 Mrs. Clinton, we do not know what those  
5 communications were and whether they in fact were  
6 about matters that he had told RTC he was not  
7 involved with. But we would have reported that and  
8 allowed RTC to make that judgment.

9 Had we seen these records, we would have  
10 asked Mr. Hubbell about them.

11 Q Have you refreshed your recollection with  
12 regard to what Mr. Hubbell said?

13 A I'm sorry. I don't have his statement. It  
14 is a long interview, I think.

15 MR. GIUFFRA: Off the record.

16 (Discussion off the record.)

17 BY MR. GIUFFRA:

18 Q How long, by the way, did you spend on this  
19 entire investigation, both the investigation process  
20 and the reporting process?

21 A I don't know the number of hours, if that's  
22 what you are asking.

1 Q The time period?

2 A It began in March of 1994 and our report  
3 was issued on August 3, 1995.

4 Q So over a year?

5 A Yes.

6 Q And you have no idea as to the number of  
7 hours that would have been spent on this total?

8 A No, I don't.

9 Q But it was an extensive investigation?

10 A Yes.

11 Q Was this your primary investigation during  
12 this time period?

13 A There were investigators assigned to this.  
14 It was their primary.

15 Q Do you recall how many?

16 A As to the investigation as a whole or just  
17 the Madison aspect of it?

18 Q Just the Madison aspect.

19 A There was one investigator who worked on it  
20 extensively and I would say it was his primary  
21 responsibility. There were others, three or four  
22 other investigators who would have worked on perhaps

---

1 bits and pieces of the Madison aspect of it. There  
2 were supervisory personnel.

3 Q Let's turn to 29010.

4 A Yes.

5 Q This document is a January 30, 1986 bill  
6 from Rose to Madison with regard to IDC.

7 A Yes.

8 Q Have you seen this document before?

9 A Yes. We had this document as of the time  
10 of our investigation.

11 Q With regard to --

12 A We had --

13 MR. GIBSON: Off the record for a moment.

14 (Discussion off the record.)

15 THE WITNESS: The document that we have, we  
16 had a slightly different version of it. Our version  
17 of it came out of the institution's records, and  
18 therefore it did not have the handwritten notations  
19 which appear on 29010.

20 BY MR. GIUFFRA:

21 Q Now, this document, 29010, this was an  
22 important document for your investigation; am I

1 correct?

2 A Yes.

3 Q This at least specified some of the  
4 services that Rose had provided in connection with  
5 IDC?

6 A Correct.

7 Q But left open a lot of questions which you  
8 didn't know, which attorneys had performed what work  
9 and when the work had been performed and the extent  
10 to which particular attorneys performed that work?

11 A Correct, or how much time one aspect of it  
12 took versus another aspect of it.

13 Q Now, let's turn to the next page, 29011.

14 A Yes.

15 Q You would agree that this page is rather  
16 important to an investigation into the conflicts  
17 issue?

18 A This has material information, yes.

19 Q Why don't you just go through what material  
20 information is contained on this page.

21 A This document is the billing memorandum for  
22 matter number 5 IDC spanning the time period which

1 primarily seems to be December and January.

2 Q Really a six-week period?

3 A Yes. There is a reference at the top to  
4 something that was done on 10/18/85 as well. So,  
5 there is one reference to other work.

6 Q We don't have the billing memorandums for  
7 the September and October bills; correct?

8 A No, we do not, except to the extent that  
9 there is one entry here that dates back to  
10 September.

11 Q Between --

12 A October. I'm sorry?

13 Q Between 12 --

14 MR. PORTNOY: We don't know if any such  
15 documents exist, just for the record.

16 MR. GIUFFRA: We don't know.

17 BY MR. GIUFFRA:

18 Q Between 12/6/84 and 1/24/85, Mrs. Clinton  
19 has seven phone calls with Mr. Ward. Would those  
20 phone calls be a reportable fact?

21 A Yes.

22 Q Would they be material to the conflicts



1 investigation?

2 A They would be material to our  
3 investigation.

4 Q Why would they be material to your  
5 investigation? Why would these phone calls between  
6 Mrs. Clinton and Mr. Ward be material to your  
7 conflicts investigation?

8 A Again, the question which arose in RTC's  
9 mind was expressed by the RTC attorneys as one  
10 involving Mr. Ward. They had active litigation  
11 against Mr. Ward at the time.

12 In addition, the Rose Law Firm's work with  
13 the IDC matter was important to the conflicts  
14 investigation because of the impact that the IDC  
15 transaction ultimately had on the institution and the  
16 defenses that Frost could have raised in its work, in  
17 its potential litigation with the RTC.

18 Q From your review of the billing records, do  
19 you know how many telephone calls Mrs. Clinton had  
20 with Mr. Ward?

21 A I believe we counted up 15.

22 Q So, 15 teleconferences between Mrs. Clinton

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1 and Mr. Ward.

2 A Either telephone conferences or sometimes  
3 it just said "conference," whether that is a  
4 face-to-face meeting or telephone conference.

5 Q Why would those particular conferences with  
6 Mr. Ward and Mrs. Clinton be of relevance?

7 A Mr. Ward was one of the insiders at IDC  
8 whose actions were criticized by the regulators, and  
9 Mr. Ward's loans were at issue in the Frost  
10 litigation.

11 Q Do you have anything more to add as to why  
12 these phone calls might be relevant to the conflicts  
13 investigation? The fact that Mrs. Clinton was a  
14 partner at the firm? It just shows greater  
15 involvement with the firm and Mr. Ward?

16 A It shows the nature -- not the nature. It  
17 doesn't show that. It just shows a telephone  
18 conference. It shows a greater extent, yes.

19 Q The greater the extent of the firm's  
20 involvement with Mr. Ward, the greater the potential  
21 conflict issue?

22 A That's a conclusion that I would leave for

1 RTC, now FDIC.

2 Q But obviously the more conferences that  
3 Mrs. Clinton had with Mr. Ward or that other Rose  
4 lawyers had with Mr. Ward, that would certainly be  
5 something that should have been disclosed to the RTC  
6 in connection with the Frost litigation; right?

7 A Yes, the work that was done by the Rose Law  
8 Firm in connection with matter number 5 IDC should  
9 have been disclosed to the RTC.

10 Q What is your understanding as to what was  
11 disclosed to the RTC by Rose with regard to its prior  
12 representation of Madison?

13 A At some point during the course of the  
14 representation, and there is disagreement as to when  
15 things were disclosed, certainly at some point it was  
16 disclosed that Web Hubbell was the son-in-law of  
17 Mr. Ward, that there was some prior representation  
18 with regard to what I believe was described as some  
19 narrow regulatory issues. Let me take a look at the  
20 report itself.

21 Q By the narrow regulatory issues, you mean  
22 the wet/dry issue?

1 A I need to, I think, refer for a full answer  
2 to this back to our volume 3 of that report. I know  
3 that Ward was asked for and provided assurances with  
4 regard to his representation -- I said Ward. I meant  
5 Hubbell. He was asked for and provided assurance  
6 with regard to his representation and lack thereof of  
7 Mr. Ward.

8 I don't know that anything -- I do not  
9 believe anything at all was disclosed on matter  
10 number 5 IDC. I need to look back to find out  
11 exactly what was disclosed, but I believe it was  
12 relatively minimal.

13 Q Just in general about the prior work?

14 A Yes.

15 Q Perhaps what was disclosed had to do with  
16 the securities offer?

17 A That was my recollection, but I didn't look  
18 back.

19 Q There is an entry under "amount to bill" at  
20 the bottom of the page --

21 MR. GIBSON: Which page?

22 MR. GIUFFRA: 29011.

1 BY MR. GIUFFRA:

2 Q 2731.25 it says under "amount to bill,"  
3 Mrs. Clinton's standard value is 91250. What if any  
4 significance do you say ascribe to that amount to  
5 bill number?

6 A Obviously that was approximately a  
7 threefold increase, and Mr. Clark of the Rose Law  
8 Firm indicated that he believed that was for  
9 additional work done.

10 Q By Mrs. Clinton?

11 A Yes, by Mrs. Clinton. That line is  
12 Mrs. Clinton's work.

13 MR. GIUFFRA: Let's have this marked as  
14 Exhibit 1.

15 (Black Exhibit 1 identified.)

16 MR. GIBSON: Off the record.

17 (Discussion off the record.)

18 BY MR. GIUFFRA:

19 Q This is a document that the Committee staff  
20 prepared. What we have attempted to do is figure out  
21 what work was done to justify the \$4651.50 that is  
22 billed on the January 30, '86 bill.

1 Based on your analysis, you would agree  
2 that the September and October bills total \$1189;  
3 right?

4 A I'm not sitting here adding them up, but  
5 yes.

6 Q Have you taken any steps to ascertain what  
7 this 2731.25 number means?

8 A What it means?

9 Q Yes. What does it total?

10 A We have looked at these numbers. We have  
11 added them up and looked at differences. I would  
12 prefer to defer to Mr. Switzer on that. That is more  
13 his aspect of this than mine, if you are going to get  
14 into the numbers.

15 Q Roughly, just so the record is clear, what  
16 do you generally understand this 2731 to reflect?  
17 Just an increase of \$1818?

18 A \$1818, yes, that is about the increase.

19 Q Which would about to about 14-1/2 hours at  
20 Mrs. Clinton's billing rate of 125?

21 A That is right.

22 MR. GIUFFRA: Mark this as Exhibit 2.

1 (Black Exhibit 2 identified.)

2 BY MR. GIUFFRA:

3 Q This is an attempt to calculate  
4 Mrs. Clinton's IDC billings. Have you attempted to  
5 ascertain how much of the -- let me strike that. Do  
6 you have any idea as to how much time Mrs. Clinton  
7 billed to Rose on an hourly basis?

8 A I have seen documents which reflect that.  
9 Our auditors put something together. I don't have it  
10 in front of me.

11 MR. GIUFFRA: Off the record.

12 (Discussion off the record.)

13 BY MR. GIUFFRA:

14 Q Is it approximately 60 hours she billed or  
15 is that just a guess on your part, total, to Madison?

16 A That's my recollection, rough  
17 recollection.

18 Q Do you know how much she spent on IDC?

19 A I don't.

20 Q This document which we have prepared  
21 indicates 15 hours that we can identify exactly what  
22 Mrs. Clinton did.

1 A That includes matters which were billed to  
2 IDC on the billing memoranda or invoices and also  
3 those which were found on other matter numbers but  
4 appear to be IDC-related.

5 Q Correct. You don't have any reason to  
6 dispute that that's a way to do this anyway?

7 A No.

8 Q Is that in fact what the RTC IG has  
9 attempted to do?

10 A Yes.

11 Q Take the stuff from the general account  
12 with the stock offering with the general partners  
13 that appear to be IDC-related and put it all in one  
14 category?

15 A Yes. We were in the process of doing  
16 that. That one was not complete as of this morning.  
17 Our review is ongoing. It was one of the things we  
18 were trying to break down.

19 Q This question of the 14-1/2 hours and what  
20 Mrs. Clinton did, that is an issue you are also  
21 looking at?

22 A We are aware of it. We are aware of the



1 way it breaks down to an increased amount and her  
2 billing rates. But I'm not sure if you are asking  
3 are we doing anything else as to it.

4 Q Would the fact that Mrs. Clinton has billed  
5 an additional \$1818 to IDC beyond what is reflected  
6 in the billing memoranda, would that be material to  
7 your conflicts investigation?

8 A It shows -- if Mr. Clark is correct and  
9 that represents increased time, it shows a  
10 significant increase in time over what was there  
11 before.

12 Q Why would a significant increase in time be  
13 material to your conflicts investigation?

14 A Again, we are looking at how much work was  
15 done on IDC, the extent to which the Rose Law Firm  
16 was involved. So that helps indicate the extent to  
17 which Rose Law Firm was involved.

18 Q And the greater extent the Rose Law Firm  
19 was involved, the greater the potential conflict.

20 A You are drawing the conclusion.

21 Q Based on your own knowledge as a lawyer who  
22 has experience looking at conflict issues, you would

---

1 agree with that analysis that the greater --

2 MR. PORTNOY: Ms. Black has said she  
3 doesn't want to be drawn into making an analysis.  
4 That she didn't view as her role.

5 MR. GIUFFRA: You can object and I can ask  
6 the question.

7 BY MR. GIUFFRA:

8 Q The greater the amount of the firm's work  
9 on a particular matter, you would agree with that in  
10 principle?

11 THE WITNESS: Can we go off the record for  
12 a moment?

13 (Discussion off the record.)

14 MR. GIBSON: Back on the record.

15 THE WITNESS: Part of the problem I was  
16 having in answering your question, other than in  
17 general not wanting to draw conclusions where I can  
18 avoid it, is that we don't know what that work  
19 represents. It is the nature of the work which gives  
20 rise to the conflict, not the sheer amount. So,  
21 again, it would be a relevant fact, but I am not  
22 sure --

1 BY MR. GIUFFRA:

2 Q It is a question to which there is no  
3 answer at this point because we don't have the backup  
4 information reflecting what Mrs. Clinton did to  
5 justify the \$1118 addition to the bill?

6 A Yes.

7 Q If she had done work related to either the  
8 acquisition or the September 24 letter or the option  
9 agreement in that -- to justify that fee, then that  
10 would be relevant to the conflict analysis?

11 A Yes, it would.

12 Q You are currently looking into what was  
13 done to justify this 1818 addition to the bill?

14 A I don't know how much more can be done. I  
15 don't know if RTC has posed interrogatories in that  
16 regard or not. We are certainly looking at documents  
17 to see if we can connect anything.

18 Q Have you had a chance to review any of  
19 Mrs. Clinton's responses to the RTC interrogatories?

20 A Yes. Some of them. I don't know that I  
21 have all of them.

22 Q Do you recall reading an interrogatory --

---

1 DKS 806, this is response to interrogatory 17 K --  
2 "Question: In April and May 1985, did you  
3 communicate with Arkansas Securities Commissioner  
4 Beverly Bassett with regard to a proposal by Madison  
5 Guaranty to issue preferred stock?" This goes into  
6 her answer, which I am reading in part to save time.  
7 "While I was the billing partner on this matter, the  
8 great bulk of the work was done by Richard Massey,  
9 who was then an associate of Rose and his specialty  
10 was securities law. I was not involved in the  
11 day-to-day work on this project."

12 Do you recall reading that answer to that  
13 interrogatory?

14 A I don't know that I have seen that  
15 document. I am aware that that response has been  
16 made. It I believe has been referenced in your  
17 hearings. I at least know it from that.

18 Q Do you think that the billing records call  
19 into question that interrogatory response?

20 MR. PORTNOY: I believe Ms. Black testified  
21 it has not been their practice to try to reconcile  
22 even apparent contradictions, assuming there was

1 one.

2 THE WITNESS: We would in fact not make --  
3 I think that -- we do not -- you are correct, we do  
4 not try to reconcile --

5 BY MR. GIUFFRA:

6 Q You would at least identify what appears to  
7 be a contradiction, however?

8 A We would state this is what was said, this  
9 is what the billing records show.

10 Q Does this appear to be a contradiction to  
11 you between that statement by Mrs. Clinton regarding  
12 her work on the securities project and the billing  
13 records?

14 A Again, we would simply report the fact and  
15 let those who receive the report make the judgments.

16 Q Does there appear to be a contradiction to  
17 you?

18 MR. PORTNOY: You are asking her to reflect  
19 her own personal policy and not as a representative  
20 of the Inspector General's office?

21 BY MR. GIUFFRA:

22 Q You can answer the question. For example,

---

1 we now know from the billing memorandum page which we  
2 discussed, 28943, that Mr. Massey spent 9-1/2 hours  
3 on the stock offering in the period in May and  
4 Mrs. Clinton spent five hours on the stock offering  
5 time. Doesn't that seem to create a contradiction  
6 between the statement "the great bulk of the work was  
7 done by Richard Massey," going on to say "I was not  
8 involved in the day-to-day work on this project"?  
9 Wouldn't that flag an issue for you to at least look  
10 at and identify in your investigatory report?

11 A We would certainly identify the amount of  
12 time that she had worked, because from a conflicts  
13 perspective, the knowledge of the partner could be  
14 relevant and the time spent. We don't know with  
15 regard to a lot of these communications exactly what  
16 did occur. So, it is hard to reach a judgment.

17 Q You have already testified that the amount  
18 of partner time spent on a matter is relevant to the  
19 conflicts analysis.

20 MR. PORTNOY: I believe she also testified  
21 that it is the nature of the work, not just the  
22 quantity of the work, so the record is clear.



1 THE WITNESS: Yes, that is correct. One  
2 looks at both in conjunction with each other.

3 BY MR. GIUFFRA:

4 Q If Mrs. Clinton is saying the great bulk of  
5 the work was done by Massey, yet it appears that he  
6 did 9-1/2 hours and she did five hours of work, do  
7 you think that would be the great bulk of the work  
8 being done by Mr. Massey? There seems to be a  
9 contradiction between what this says --

10 MR. PORTNOY: I am going to object. It is  
11 quite plain the witness doesn't want to answer the  
12 question that is --

13 MR. GIUFFRA: Witnesses don't want to  
14 answer questions all the time. Most of the witnesses  
15 that come here don't want to answer questions.

16 MR. PORTNOY: She obviously considers it  
17 beyond the scope of what she did with respect to the  
18 report and is uncomfortable with the whole area of  
19 inquiry. I will continue to object. I think it is  
20 perfectly appropriate for her to respond that way.

21 MR. GIBSON: Are you asking Ms. Black in  
22 her capacity as a federal investigative official to

1 answer that question or are you asking for a personal  
2 opinion?

3 MR. GIUFFRA: As a federal investigative  
4 official.

5 MR. GIBSON: For the record, as a federal  
6 investigative official, her responsibility is to  
7 investigate and report the facts and not to draw  
8 those sorts of conclusions. Are you asking her to  
9 draw a conclusion with respect to the --

10 BY MR. GIUFFRA:

11 Q In preparing a report of investigation, you  
12 identify contradictions of facts; correct?

13 A We identify --

14 Q Contradictions.

15 A Yes.

16 Q You sometimes identify those  
17 contradictions?

18 A We identify contradictions. We identify  
19 supporting evidence. We don't necessarily say that  
20 this is a contradiction. We say witness A said this,  
21 witness B said that, the records say whatever the  
22 records say. We identify facts. We don't



1 characterize them as contradiction, corroboration or  
2 otherwise. That's generally what we do.

3 Q So, you avoid describing two facts as being  
4 in conflict or in contradiction?

5 A We generally try to do that. We try to  
6 make it as strictly factual as possible.

7 Q You would agree you would at least flag the  
8 statement of Mrs. Clinton and also flag the billing  
9 record?

10 A We would report what she said and what the  
11 billing records said.

12 Q You are not prepared to say whether there  
13 appeared to be a conflict or a contradiction; is that  
14 right?

15 A That's right.

16 Q You would flag it as an issue potentially  
17 requiring the fact-finder to make some sort of a  
18 judgment?

19 A I would flag them as separate and distinct  
20 events, separate and distinct facts that we found,  
21 one fact being that Mrs. Clinton characterized her  
22 involvement and then repeated her characterization,

1 another fact is the billing records.

2 Q Do you ever say in an investigative report  
3 whether facts support a conclusion?

4 A I don't know that I can say it has never  
5 been done. It is something we generally avoid.

6 Q Do you recall reading Mrs. Clinton's  
7 interrogatory response? Strike that.

8 Have you reviewed Mrs. Clinton's  
9 supplemental interrogatory responses dated -- have  
10 you reviewed those?

11 A May I?

12 Q Yes.

13 MR. GIBSON: This is an incomplete copy.

14 MR. GIUFFRA: Yes, it is.

15 THE WITNESS: I believe I have seen this  
16 document.

17 MR. PORTNOY: In its entirety?

18 THE WITNESS: Yes, and that appears to be a  
19 partial copy of the document.

20 MR. PORTNOY: I ask only because you said  
21 before you weren't sure you had seen all the  
22 interrogatory responses. I wasn't clear whether that

1 meant you had seen isolated responses or weren't sure  
2 if you had seen every set.

3 MR. GIBSON: For the record, the copy of  
4 the interrogatories that you have just been shown,  
5 there wasn't a date, but I believe it was in  
6 January. Was that copy signed by anybody?

7 MR. GIUFFRA: I don't think it was signed  
8 that I'm aware of, although Mr. Kendall,  
9 Mrs. Clinton's attorney, provided it to the RTC.

10 BY MR. GIUFFRA:

11 Q Mrs. Clinton's interrogatories that were  
12 signed, the first set, signed May 24, '95, that would  
13 have been part of your investigatory record?

14 A I'm not entirely sure whether it was or  
15 not.

16 Q Are you aware -- in her supplemental  
17 interrogatory, this is number 64, Mrs. Clinton was  
18 asked, "describe the work you performed with respect  
19 to Madison Guaranty matter number 5," and she says,  
20 among other things, "I believe that the work I did on  
21 this matter consisted primarily of supervising  
22 research concerning legal issues such as whether it

1 would be legal to open a tasting room for a proposed  
2 brewery in light of the fact that the land was  
3 arguably located in what was considered a dry  
4 township and other questions relating to the  
5 provision of water and sewer service by a utility  
6 which was located within the IDC property."

7 Do you recall that interrogatory response?

8 A Yes, and that goes on to identify some  
9 limited involvement with an option between Mr. Ward  
10 and Madison Financial.

11 Q Correct.

12 A Yes.

13 Q Have you reviewed the billing records to  
14 try to identify time entries of Mrs. Clinton relating  
15 to supervising research concerning legal issues,  
16 et cetera?

17 A We reviewed the billing records to identify  
18 time spent by Mrs. Clinton.

19 Q On supervising the research?

20 A Well, what we did was look at the entries  
21 and take them for what they were. I have not pulled  
22 out items which appear to be supervisory in nature

1 versus other items, and with telephone conferences,  
2 they don't have any description of what went on.

3 Q It is impossible to know what went on?

4 A It is somewhat difficult to divide that  
5 down.

6 Q Unless you can look at when the call  
7 occurred.

8 A That might be some indication.

9 Q If a call occurred at some particular time,  
10 it might determine what it was about. In terms of  
11 the conflicts analysis, were there specific tasks the  
12 Rose Law Firm performed in connection with the IDC  
13 matter that were more relevant to the conflicts  
14 analysis than others?

15 A I guess it would be that some would fall  
16 into an area which would be of more concern, might  
17 indicate a conflict. Others would fall into an area  
18 that would not indicate a conflict. Some you can't  
19 tell.

20 Q If you were to try to delineate those areas  
21 for us, could you do so?

22 A Areas of work that would cause?

---

1 Q Let's assume there is a spectrum from  
2 conflict to no conflict. Could you delineate which  
3 of the services that we are aware of that the Rose  
4 Law Firm provided fell closer to the conflict side  
5 and which fell closer to the no conflict side?

6 A We would report them all, because what we  
7 were trying to do was report everything that they did  
8 so that the finder of fact, if you will, or the  
9 people responsible for reaching these conclusions can  
10 determine whether or not they were conflicts.

11 Q In terms of reporting of certain facts that  
12 would be more material to a conflicts analysis than  
13 others?

14 A Areas -- there were certainly areas that we  
15 looked at very closely.

16 Q Which would be the areas you would have  
17 looked at very closely for purposes of conflicts  
18 analysis?

19 A We looked at the work that was done with  
20 regard to IDC.

21 Q But there are different types of work done  
22 with regard to IDC?



1 A Correct.

2 Q With regard to the entire representation,  
3 you would say the IDC work would be the most relevant  
4 to your conflicts analysis?

5 A Again, all of the work they did for Madison  
6 was relevant.

7 Q Which would be the most relevant?

8 MR. PORTNOY: I believe once again  
9 Ms. Black testified they didn't do this kind of  
10 analysis, and you are asking her to do something that  
11 they haven't done.

12 THE WITNESS: I am also getting hung up  
13 on -- it would all be very relevant if we found that  
14 100 percent of the work that was done and we reported  
15 and RTC would look at it and say there is absolutely  
16 nothing here that shows a conflict. A negative  
17 finding is also highly relevant. Do you see what I'm  
18 saying? I can't really --

19 BY MR. GIUFFRA:

20 Q For example, if you were to determine which  
21 would be more material to a conflicts analysis in  
22 terms of to show a conflict, it would be the IDC work

1 or the work in connection with this preferred stock  
2 offering?

3 MR. PORTNOY: She has testified it was not  
4 her purpose to show a conflict but to provide  
5 information for the other decisionmaker to determine  
6 whether a conflict existed. You are asking her to do  
7 something completely outside the scope of the task  
8 she undertook.

9 BY MR. GIUFFRA:

10 Q Can you answer the question, Ms. Black?

11 A I'm afraid the answer I would have to give  
12 you is what I gave you before.

13 Q Do you consider yourself someone who is  
14 experienced at looking at conflicts involving law  
15 firms representing the RTC?

16 A Yes.

17 Q You have to know something about it in  
18 order to do your job?

19 A Yes.

20 Q You can't conduct your investigation unless  
21 you know what facts are relevant to a conflicts  
22 analysis and what are not?



1 A Correct.

2 Q You can't sit here and say I just find  
3 facts. Some facts are more relevant to a conflicts  
4 analysis than other facts; right?

5 A Yes.

6 Q Would you consider the Rose Law Firm work  
7 on the IDC matter to be more material to a conflicts  
8 analysis if one were looking to see whether there was  
9 a conflict than the work on the stock offering?

10 MR. PORTNOY: Again, first of all, she has  
11 testified they weren't looking to see if there was a  
12 conflict. They were providing data for someone else  
13 to determine if there was a conflict. Secondly, she  
14 has testified her job was to lay out all relevant  
15 material both leading to the finding of no conflict  
16 and to allow someone else to make the determination.

17 MR. GIBSON: Off the record.

18 (Discussion off the record.)

19 THE WITNESS: In undertaking this  
20 investigation, we were certainly acutely aware that  
21 the regulators -- maybe not undertaking it, but  
22 during the course of the investigation, we became

1 very aware that the regulators looked at the IDC  
2 transaction -- that the loans underlying that  
3 transaction caused substantial loss to the  
4 institution, that the matter of insider dealing was  
5 cited by the regulators as a cause of that and that  
6 that was a defense that was raised in the Frost  
7 litigation.

8 In addition, we were acutely aware of the  
9 Ward v Madison litigation and that that was of  
10 concern to RTC at the time and therefore we certainly  
11 did focus on IDC.

12 BY MR. GIUFFRA:

13 Q More so than you would have focused on the  
14 securities offering?

15 A We focused on all of it. We reported all  
16 of it. We were aware that IDC had been singled out  
17 for particular criticism by the regulators and that  
18 that would be of concern to the RTC.

19 Q In fact, in volume I of your report, there  
20 is in fact a discussion of conflict of interest rules  
21 applicable to the Rose Law Firm; right?

22 A Yes.

1 Q You obviously have some familiarity with  
2 the types of conflict of interest rules that would  
3 apply.

4 A Yes.

5 Q Conflicts of interest rules that would and  
6 wouldn't apply in certain circumstances; correct?

7 A Correct.

8 Q Let's turn to the option, which would be  
9 29026.

10 A What was the number?

11 Q 29026.

12 A Okay.

13 Q Just to go forward, if you turn to page 3,  
14 the executive summary of your report, you identify  
15 actual conflicts that should have been disclosed,  
16 potential conflicts that should have been disclosed.

17 A We did not distinguish between actual or  
18 potential. We looked at what should have been  
19 disclosed.

20 Q You are making a judgment as to what should  
21 and should not have been disclosed as a conflict in  
22 your report?

1 A Keeping in mind that RTC and FDIC  
2 consistently required any possible, actual or  
3 potential conflict, so, yes, we did keep that in mind  
4 as we were doing our report.

5 Q In fact --

6 MR. GIBSON: Off the record.

7 (Discussion off the record.)

8 MR. GIBSON: Back on the record.

9 THE WITNESS: You were pointing to a  
10 discussion on I-3 where under -- that occurs under a  
11 heading stating "conflict of interest standards." We  
12 were setting out the standards that RTC had in place  
13 at the time. That's the portion that you were  
14 reading from, I believe.

15 BY MR. GIUFFRA:

16 Q I believe on I-3 you state "the Rose Law  
17 Firm represented 17 institutions on RTC matters.  
18 Rose Law Firm did not disclose actual or potential  
19 conflicts of interest with respect to seven of these  
20 institutions, some of which were involved in  
21 investigation and suits against professionals and  
22 officers and directors of some of these thrifts. In

1 addition, the Rose Law Firm did not disclose to the  
2 RTC that it represented parties in matter that refers  
3 to the RTC."

4 A Correct.

5 Q You are making judgments in the report.  
6 You are.

7 A To a degree we do. We find -- we found  
8 that they needed to report actual or potential  
9 conflicts and we found that, without deciding whether  
10 it was an actual or potential conflict, there were  
11 things that should have been reported to the RTC to  
12 allow the RTC to make that judgment as to whether  
13 there was an actual or potential conflict.

14 Q On page "summary of investigative results"  
15 on pages I-3 through I-5, you discuss the Frost  
16 representation and you discuss to a large extent  
17 Castle Grande; is that correct?

18 A That's correct.

19 Q And these were matters that should have  
20 been disclosed by Rose to the RTC, what is set forth  
21 on page I-3 to I-5; correct?

22 A That's correct.

1 Q And in delineating -- let me make it more  
2 simple. This report on --

3 MR. PORTNOY: Is it your testimony that  
4 everything on 3 to 5 is something that Rose had an  
5 obligation to report? That is not precisely how you  
6 characterized it in the written document. I want to  
7 be sure that's what you meant.

8 THE WITNESS: Well, what it says is "the  
9 following briefly outlines certain information  
10 developed during the investigation."

11 That's what is set forth on those pages.  
12 Included in that is information which should have  
13 been disclosed to RTC and was not.

14 MR. PORTNOY: Which is different from  
15 saying that everything on those pages should have  
16 been disclosed to the RTC and was not?

17 THE WITNESS: Correct. Some of this is  
18 just a straight factual recitation.

19 MR. PORTNOY: That was just a clarification  
20 question.

21 BY MR. GIUFFRA:

22 Q Looking at page I-3 to I-5, what do you



1 believe Rose Law Firm -- what is set forth in I-3 to  
2 I-5 that Rose should have disclosed to the RTC?  
3 Let's do that first. Then we will take the -- if you  
4 had this additional information from the billing  
5 records, what do you think should have been  
6 disclosed.

7 MR. GIBSON: Off the record for a moment.  
8 (Discussion off the record.)

9 MR. GIBSON: Back on the record.

10 THE WITNESS: On page I-4, starting in the  
11 second full paragraph, the first sentence indicates  
12 that Rose Law Firm represented Madison Guaranty in  
13 the purchase of a large tract of property in Little  
14 Rock from IDC. That should have been disclosed. The  
15 second sentence describes the representation that we  
16 knew about at the time which came off of a January  
17 invoice. That was not disclosed and should have  
18 been.

19 The next sentence is a statement of law.  
20 The next sentence is a description of an examination  
21 report, of which Rose might or might not have been  
22 aware, so I can't say they were required to disclose

1 that. They may not even have been aware.

2 The statement that Madison Guaranty  
3 financed 100 percent of Ward's purchase with a  
4 nonrecourse loan, I don't know whether Rose knew that  
5 or not. There is a reference to the option from Ward  
6 to convey the property back to Madison Guaranty.  
7 That was a reference to the September 24th option in  
8 either of its forms, and we don't know whether Rose  
9 knew that or not. Nor do we know whether they knew  
10 about the agreement to pay Ward commissions. That  
11 depends upon whether they knew about that September  
12 24th agreement.

13 The next statement is a statement of law  
14 again. And the final sentence in that paragraph  
15 deals with the provision of legal services to Madison  
16 Guaranty and to Ward on two regulatory issues with  
17 regard to Castle Grande. That probably should have  
18 been reported as well.

19 MR. PORTNOY: Is it your understanding that  
20 the Rose Law Firm represented Ward in those matters?

21 THE WITNESS: This states that they  
22 provided services, legal services to Madison Guaranty



1 and Ward.

2 MR. PORTNOY: Is your understanding of that  
3 statement that it is a representation, a legal  
4 representation?

5 THE WITNESS: No. That was carefully  
6 worded. They provided legal services, and that is  
7 not necessarily in his personal capacity. He was an  
8 employee of Madison.

9 MR. PORTNOY: So this does not then mean  
10 that you have concluded in any way that Madison  
11 represented Ward in these matters -- I'm sorry. That  
12 the Rose Law Firm represented Ward.

13 THE WITNESS: Correct. So, the work that  
14 the Rose Law Firm did with regard to Castle Grande  
15 should have been disclosed to RTC.

16 The next paragraph is simply a description  
17 of fact. Then the next paragraph, the last one on  
18 the page, the first sentence "Rose was aware of  
19 regulatory concerns including its net worth through  
20 its representation with the Arkansas Securities  
21 Department."

22 BY MR. GIUFFRA:

1 Q That is based on the Handley memo?

2 A Yes. That should have been reported.

3 Q And the Massey response.

4 A Yes.

5 We state Rose Law Firm did not -- this is  
6 at the top of 5. "Rose Law Firm did not disclose  
7 fully its relationship with Madison Guaranty in the  
8 purchase and development of IDC property to FDIC or  
9 RTC when it was retained in the suit against Frost &  
10 Company." Because that property was involved in  
11 another lawsuit with the -- that the RTC was  
12 defending --

13 Q That's the Ward versus Madison?

14 A Yes, and because that series of transaction  
15 involved insider dealing and was heavily criticized  
16 by the regulators, those facts were reportable.

17 Q Based on your review of the newly  
18 discovered billing records, are there any additional  
19 facts you believe Rose should have reported to the  
20 RTC?

21 A A fact we didn't know about until we looked  
22 at the billing records was that the option agreement

1 of May 1, 1986, which was material to the Ward v  
2 Madison litigation, was actually drafted by the Rose  
3 Law Firm. We did not know that. That is certainly a  
4 reportable fact.

5 Q Are there any other reportable facts that  
6 you have been able to glean from looking at the  
7 billing records?

8 A I think the entire extent of provision of  
9 services with respect to Madison was reportable.  
10 That doesn't mean that RTC would have concluded that  
11 any given set of facts was a conflict. Since actual  
12 and potential conflicts have to be reported, all of  
13 that representation should have been reported.

14 Q They should have reported, among other  
15 things, the number of phone calls with Seth Ward?

16 A I don't know that they would have gone into  
17 that kind of detail.

18 Q What kind of detail should they have gone  
19 into with regard to reporting information that might  
20 be relevant to a conflicts analysis?

21 A Typically a law firm, there would be a  
22 request to identify any of the primary actors,

1 representation by any of the primary actors in an  
2 institution.

3 Q What do you mean by that? Do you mean the  
4 people on the other side --

5 A The directors and officers.

6 Q If you had a communication with a director  
7 or officer --

8 A Not a communication, but a representation.

9 Q A legal representation?

10 A Yes.

11 Q In this particular case, this question that  
12 was flagged as to whether or not they were  
13 representing Ward in connection with Madison in this  
14 transaction?

15 A Correct. They said they were not.

16 Q Were you aware as far as the Rose Law Firm  
17 whether anyone represented Ward, any outside counsel?

18 A In?

19 Q In the Castle Grande transactions.

20 A Not that I'm aware of.

21 Q Based on your review of the record, who  
22 would you presume represented Mr. Ward?

1 A I don't know that he was represented  
2 personally.

3 Q If he was represented personally, it would  
4 have to have been by the Rose Law Firm?

5 A I don't think there were any other  
6 attorneys at the closing. I would also like to note  
7 that we were focusing on -- this was a conflict  
8 investigation. We didn't investigate the whole IDC  
9 transaction. We just were attempting to ascertain  
10 Rose's connection with it. We didn't ask Mr. Ward  
11 were you represented by anybody else.

12 Q Can you think of any other information that  
13 maybe should have been reported based on the review  
14 of the billing records? Specific information. You  
15 identified the option. You identified just a greater  
16 reporting of the extent of Rose's services.

17 A They did not identify the IDC transaction  
18 at all, their involvement at the closing, that they  
19 were closing counsel on the property. I don't think  
20 there was any disclosure of any of their involvement  
21 with IDC to the RTC. Typically a law firm would  
22 issue a general description of what it had done. If

1 it caused the RTC concern, the RTC would say maybe  
2 based on that general description, no, we can't hire  
3 you at all or maybe based on the general description  
4 they would ask more specific questions. But the IDC  
5 matter should have been disclosed and wasn't.

6 Q You are aware of Mr. Ward's statement in  
7 which he indicates that he did not speak to  
8 Mrs. Clinton about the legal research that  
9 Mrs. Clinton was involved in with regard to IDC;  
10 correct?

11 A Yes. I think he said he didn't recall  
12 talking to her about that at all.

13 Q You are also aware of the fact that he  
14 indicates he did not meet with Mrs. Clinton in  
15 connection with the IDC transaction?

16 A Yes.

17 Q Do the billing records appear to create an  
18 issue as to Mr. Ward's statements with regard to his  
19 dealings with Mrs. Clinton?

20 A Again, we would report what Mr. Ward said  
21 and we would report what the billing records showed.  
22 That would be an important --



1 Q Important fact?

2 A Yes.

3 Q Because the extent -- Mr. Ward was the  
4 person who was in litigation adverse to the RTC?

5 A Yes.

6 Q Therefore, every single communication that  
7 the Rose Law Firm had with Mr. Ward would be a  
8 reportable fact?

9 MR. PORTNOY: That's not what she testified  
10 to.

11 MR. GIUFFRA: I will ask the questions.  
12 She is certainly capable of telling me if I'm wrong.

13 THE WITNESS: What I'm suggesting is that  
14 that a law firm would typically not report to RTC  
15 that on such-and-such a day I talked to someone.  
16 They would just report whether or not they had  
17 represented that person, and given the importance of  
18 the IDC transaction to Madison Guaranty and given the  
19 criticism which was attendant to that transaction, it  
20 is the representation with regard to IDC that that is  
21 important. In our reporting, the IG's reporting,  
22 individual conversations are important.

1 BY MR. GIUFFRA:

2 Q To look at the extent of the  
3 communications?

4 A Yes.

5 MR. GIBSON: Let me ask a couple questions  
6 to make sure the record is clear. The litigation  
7 between Mr. Ward and Madison, do you know when that  
8 litigation was initiated?

9 THE WITNESS: Yes.

10 MR. GIBSON: When was it?

11 THE WITNESS: 9/2/87.

12 MR. GIBSON: The time of the representation  
13 of the contacts that we are referring to here between  
14 the Rose Law Firm and Mr. Ward, Mr. Ward -- that were  
15 billed to matter number 5, IDC, when did those  
16 contacts take place?

17 THE WITNESS: Those all predated the filing  
18 of the lawsuit.

19 MR. GIBSON: Predated by? When were they?

20 THE WITNESS: 18 months, roughly, to two  
21 years.

22 MR. GIBSON: For the record here, I want to



1 make it clear that the contacts that we are referring  
2 to with Mr. Ward were not taking place simultaneously  
3 with this litigation, Ward versus Madison; is that  
4 correct?

5 THE WITNESS: That is correct.

6 BY MR. GIUFFRA:

7 Q What was the date that the RTC was  
8 retained, that the RTC retained Rose? It was '89?

9 A That is certainly in our report.

10 Q August of '89?

11 A '89. I believe it was August. It was  
12 March '89. I'm drawing a distinction here between  
13 what we would report in our report and what I would  
14 expect a law firm to report, and what I would expect  
15 a law firm to report is a much more general have you  
16 ever represented, yes or no, and in what sorts of  
17 capacity.

18 Q In this particular case, it appears at  
19 least with regard to the option, the option was  
20 drafted by Rose; correct?

21 A Correct.

22 Q No other lawyers appear to have been

1 involved in drafting the option?

2 MR. PORTNOY: The May '86 option?

3 THE WITNESS: May 1, '86.

4 BY MR. GIUFFRA:

5 Q No other lawyers appeared to be involved in  
6 drafting that?

7 A Not to my knowledge.

8 Q So it appears Mr. Hubbell was handling the  
9 option for both Madison --

10 A Or Mr. Ward was doing it himself.

11 Q There is also evidence in the record that  
12 Mr. Hubbell occasionally represented Mr. Ward in many  
13 matters?

14 A I believe Rose has specifically complained  
15 about that and he didn't bill for it.

16 Q But he did provide legal services to his  
17 father-in-law?

18 A I believe that's what Ron Clark testified  
19 to.

20 Q In fact, the representation by Mr. Hubbell,  
21 even if it was free, of his father-in-law is  
22 something that can be imputed to the firm; correct --

1 A That is correct.

2 Q -- for conflicts analysis?

3 Just so the record is clear, so we have it  
4 in one nice and neat place, why do you believe the  
5 option agreement was reportable?

6 A The option agreement was a critical fact in  
7 the Ward v Madison litigation. Again, Mr. Latham  
8 testified that that option agreement was intended by  
9 the parties to more accurately reflect their  
10 agreement with regard to the land and the notes that  
11 went back and forth between Madison Financial,  
12 Mr. Ward and Madison Guaranty.

13 Mr. Ward contended that it had nothing to  
14 do with that, and he didn't know why Madison Guaranty  
15 wanted this option agreement, but they were going to  
16 give him a thousand dollars for it, so that was fine  
17 with him.

18 The jury evidently accepted Mr. Ward's  
19 version of the facts because it awarded him a  
20 judgment. Had it accepted Mr. Latham's version of  
21 the facts, that judgment would not have been  
22 awarded.

1 RTC not only was appealing the judgment but  
2 it was attempting to reopen the case at the time.  
3 That option was a very material fact in that  
4 litigation, to take the next step, and that loan was  
5 used or those series of loans were used in the damage  
6 calculation in the Frost lawsuit.

7 Q What is the connection between the  
8 September 24, 1985 backdated letter and the May 1  
9 option agreement, if any?

10 A The backdated September 24 agreement  
11 referenced the 22-1/2-acre tract of land, Holman  
12 Acres, and excepted that tract of line from the --

13 Q Parcel that was shifted?

14 A Under the first September 24th letter, that  
15 parcel of land was included in Madison's ability to  
16 exercise an option. They already had the right under  
17 the September 24th letter. In the backdated  
18 September 24th, they did not have that right  
19 anymore. There would have been no need for the May 1  
20 option agreement under the first letter. They  
21 already had the right.

22 Q At the time you prepared your report --

1 MR. GIBSON: Off the record for a few  
2 moments.

3 (Counsel conferred with the witness.)

4 BY MR. GIUFFRA:

5 Q What if any was the relationship between  
6 the May 1 option agreement and the September 24  
7 letter?

8 A I explained the existence of the option in  
9 the first instance or not. But to give a full  
10 answer, you have to go well beyond that. This  
11 transaction was one of the transactions -- "this  
12 transaction" being the note between Ward and  
13 Madison -- and the option itself was one of the  
14 transactions that was specifically noted in the May  
15 8th examiner report, interim examination report as a  
16 criticized transaction.

17 The examiner notes, and I quote here, on  
18 the last page, page 11 of his report, "Ward still  
19 owns a small parcel which secures another Madison  
20 Guaranty loan and which will be purchased by Madison  
21 Financial. Ward apparently warehouses land to  
22 produce Madison Financial's investment and the

1 attendant borrowing from Madison Guaranty."

2 This parcel was involved as security for  
3 the \$400,000 mortgage note from Madison Guaranty  
4 to -- from Ward to Madison Guaranty. Ward took  
5 \$400,000 out of that. This was the last parcel of  
6 land which had not been disposed of.

7 There was substantial testimony -- there  
8 was testimony at the hearing of Ward v Madison that  
9 right around tax time in 1986, Ward came to Latham  
10 and said I need for you to pay my commissions, you  
11 owe me \$300,000 under the terms of our agreement and  
12 I need the money. Madison Financial could not give  
13 him the money at the time.

14 Ward has stated that Latham told him that  
15 the federal regulators were in and they couldn't give  
16 him that money at the time, they were looking closely  
17 at this sort of thing.

18 So instead they entered into a note whereby  
19 Ward took \$400,000. That note was a personal  
20 recourse note as initially written, and it was  
21 secured by the property.

22 The testimony then was --



1 MR. PORTNOY: The property being Holman  
2 Acres?

3 THE WITNESS: Yes. That was all that was  
4 left that Ward owned at that time.

5 Ward then a few days later apparently came  
6 to Latham and said now I owe you \$400,000, and I  
7 don't have anything that shows that you owe me the  
8 commission. So, they drew up a note from Madison  
9 Guaranty to Ward that both parties agree was intended  
10 to represent the commissions owed by Madison  
11 Financial to Ward. No money exchanged hands in that  
12 note.

13 MR. GIBSON: If I can interject to be  
14 clear, was that note from Madison Guaranty to Ward or  
15 from Madison Financial to Ward?

16 THE WITNESS: That was from Madison -- that  
17 was a note that Madison Financial, not Madison  
18 Guaranty, Madison Financial made to Ward.

19 MR. PORTNOY: Mr. Ward has an unfortunate  
20 propensity for the word "Madison." It confuses the  
21 record.

22 THE WITNESS: Ward now has \$400,000 that he

1 has by note dated March 31st from Madison Guaranty.  
2 Ward also has a note for \$300,000 from Madison  
3 Financial.

4 BY MR. GIUFFRA:

5 Q That's because he had some prior  
6 obligations with Madison Guaranty, I think.

7 A There were a long series of notes and they  
8 are rather difficult to trace. But a long series of  
9 notes back and forth.

10 Q If I could just summarize this, Ward owed  
11 Madison Guaranty \$400,000, of which was the mortgage  
12 for the 22 acres?

13 A Correct, a personal recourse note.

14 Q That he would be obligated for?

15 A Uh-huh.

16 Q There was another note for \$300,000 between  
17 Madison Financial and Ward going in Ward's direction?

18 A Correct.

19 Q And then Ward had the property?

20 A And Ward had the property, but it was  
21 securing his \$400,000 note as well. It was both  
22 secured and personal recourse, the \$400,000 note.



1 Q The option works in that they get to buy  
2 the land, Madison Financial can buy the land for  
3 \$400,000?

4 A Correct.

5 Q At the end of the day, if they exercise the  
6 option, Ward gets his \$400,000 which he can use the  
7 pay off the \$400,000 loan and then he walks away with  
8 the \$300,000 that is owed to him?

9 A No, that is not what Latham contended was  
10 supposed to happen. Remember, that is a personal  
11 recourse note. It is not just the property securing  
12 it. That caused something of a problem, because it  
13 was recognized that Ward could end up getting the  
14 money and still have the property, which was not the  
15 intent -- we haven't executed the May 1 agreement  
16 yet.

17 Prior to the execution of the May 1  
18 agreement, there was the potential for Ward to end up  
19 with the money and the property, the \$300,000 note  
20 would have been canceled --

21 MR. PORTNOY: You said before the  
22 agreement?

1 THE WITNESS: Before the May 1 agreement,  
2 there was the possibility of the money being paid  
3 off, but Madison would not have gotten the land.  
4 What the intended agreement was, according to the  
5 testimony in the trial, was that this last parcel of  
6 land would have been -- was supposed to end up being  
7 transferred to Madison Financial and Ward's  
8 commissions paid to him, \$300,000 payment to him as a  
9 part of a land sale rather than a straight commission  
10 payment.

11 BY MR. GIUFFRA:

12 Q This is Latham's testimony?

13 A Yes.

14 Q All right.

15 A And that therefore they needed to execute  
16 the option agreement so that they could exercise the  
17 option, pay off the mortgages and the note was  
18 supposed to have been canceled.

19 Q What does Ward walk away from in that  
20 scenario?

21 A He walks away with his \$300,000 in  
22 commissions, only it is represented as payment for

1 the land. The effect of that, and again there is  
2 testimony to this effect by the chief financial  
3 officer of Madison in the transcript --

4 Q This is Latham?

5 A No.

6 Q Denton? The Denton memo?

7 A Greg Young. The effect of that is to have  
8 Ward's commissions -- Ward would have had about a  
9 \$70,000 basis in that property. That was all that  
10 was left over on his original note. He had a \$70,000  
11 basis in that property. He would get paid about  
12 \$400,000. The \$300,000 would be capital gains under  
13 the agreement that they intended to reach. That was  
14 how Latham testified that the transaction was  
15 supposed to go down.

16 If you believed that scenario, then that  
17 \$300,000 note was supposed to be handed back and  
18 canceled, which was typical of the way notes were  
19 handled in Madison at that time. They did that. He  
20 would get his profit as capital gains. What in fact  
21 happened was they executed the -- you can see that  
22 the examiner expected the option to be executed.

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150

1 "Ward still owns a small parcel which secures  
2 another Madison Guaranty loan and which will be  
3 purchased by Madison Financial." It is convoluted.

4 Q The only thing I don't understand -- off  
5 the record.

6 (Discussion off the record.)

7 BY MR. GIUFFRA:

8 Q My question is going to be what was the  
9 connection between the September 24, 1985 agreement  
10 and the May 1 option that Mr. Ward had.

11 MR. GIBSON: Off the record.

12 (Discussion off the record.)

13 BY MR. GIUFFRA:

14 Q We have had a discussion off the record,  
15 and Ms. Black has attempted to educate the Committee  
16 staff on how the option fits in with the other  
17 transactions and agreements that Mr. Ward had with  
18 Madison. This answer she is now going to give will  
19 supersede her prior incomplete answer.

20 A Okay. There are a series of transactions  
21 which are interrelated, and I am speaking from  
22 testimony which was given in Ward v Madison as well

1 as from the documents.

2 The original September 24th agreement did  
3 not carve out the 22-1/2-acre parcel, Holman Acres.  
4 The backdated September 24th agreement did carve out  
5 that 22-1/2 acres as not being subject to Madison's  
6 ability to exercise an option.

7 When the parties therefore decided that an  
8 option -- strike that. Just to go back to where I  
9 said the original agreement did not carve that out,  
10 sometime around tax time in 1986, according to the  
11 testimony of both Ward and Latham, Ward came to  
12 Latham and said I now need my commissions that you  
13 owe me and I would like for Madison Financial to pay  
14 me \$300,000.

15 According to a statement by Mr. Ward, I  
16 believe in a deposition in that case, he was told by  
17 Latham Madison Financial cannot pay you that money  
18 because the regulators are in here looking at a lot  
19 of transactions. Both parties agreed that Madison  
20 Financial could not pay at that time.

21 Therefore, the parties entered into a note  
22 on 3/31/86, whereby Madison Guaranty gave Ward a

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1 personal recourse loan which was also secured by the  
2 Holman Acres property. The effect of that  
3 transaction --

4 Q How much was that for?

5 A That was for \$400,000. Ward therefore took  
6 the \$400,000. There was also testimony at the  
7 hearing, and both parties agree, that Ward paid back  
8 100,000 of that fairly quickly.

9 A week or so later, again all the parties  
10 agree, that Ward came to Latham and said I am now  
11 personally liable on a debt to you which has now been  
12 paid down to \$300,000, and I don't have anything  
13 which shows that Madison Financial owes me my  
14 commissions. If something happened to you guys,  
15 meaning Latham and McDougal, nobody would know that  
16 you owed me the money.

17 Latham testifies that he said yes, you are  
18 right, therefore we, Madison Financial, will give a  
19 note that says we owe you \$300,000.

20 So, Madison Financial gave Ward a note  
21 saying that Madison Financial owed Ward \$300,000.

22 Q That is dated?



1 A That is dated April 7, I believe. Just a  
2 moment. Yes.

3 Q Okay.

4 A So now Ward has the \$300,000. He also has  
5 a note which evidences an indebtedness by Madison  
6 Financial to him of \$300,000. All the parties agree  
7 that Ward did not in fact give Madison Financial  
8 \$300,000, but rather, that is evidence of a prior  
9 debt owing by Madison Financial.

10 Some time passes and sometime in April they  
11 are talking again, "they" being Ward and Latham.  
12 Here their testimony diverges. Latham says that they  
13 became concerned, "they," the people at Madison,  
14 became concerned that if these transactions went  
15 through, the notes in essence would cancel each other  
16 out and Ward would still have the property and that  
17 was not part of the deal, because under the original  
18 September agreement, Madison was to end up with all  
19 the property, and that was the intent of the parties  
20 all along.

21 If these notes canceled each other out --

22 Q As of this point, Ward owes them \$300,000

---

1 and they owe him \$300,000, plus he has the land?

2 A Correct.

3 Q So everything would cancel out and Ward  
4 would be up the property?

5 A Ward would be up the property, and that  
6 wasn't the intent of the transaction.

7 Q Okay.

8 A So they entered into a May 1 option  
9 agreement.

10 Q That gives Madison Financial --

11 A That gives Madison Financial the right to  
12 buy the land.

13 Q For \$400,000?

14 A Yes. What they intended to do was cancel  
15 out the prior transactions and just literally cancel  
16 the notes.

17 Q And then give him the 400,000 for the land  
18 and he walks away with that?

19 A He gets 400,000 --

20 MR. PORTNOY: Less any remaining  
21 indebtedness.

22 THE WITNESS: Yes. There was another



1 70,000 note which was outstanding. He would get paid  
2 approximately \$325,000, roughly.

3 The two \$300,000 notes would be canceled.  
4 There was the chief financial officer, Greg Young, of  
5 Madison who testified that the reason they were doing  
6 it this way, one of the reasons they were doing it  
7 this way would be to secure capital gains treatment  
8 for the \$300,000 in commission.

9 Mr. Ward, however, says that he doesn't  
10 know why Madison optioned the land but that he never  
11 intended to cancel that \$300,000 note.

12 BY MR. GIUFFRA:

13 Q Which note is that again?

14 A The \$300,000 note from Madison Financial to  
15 Ward, and that the options agreement was not related  
16 at all. The option agreement was in fact never  
17 exercised.

18 The next event which happened after May 1  
19 was Madison still was unable to exercise the option.  
20 Again, the regulators are still in there, in the  
21 institution. Ward came back to Latham -- again, this  
22 is per Latham -- and said now here I am personally

1 liable on this March 31st note to you, so those two  
2 notes can end up canceling each other out, and I  
3 still don't have any commission because I'm  
4 personally liable on the note to you. If you pay me  
5 my 300,000, I have to turn around and pay it back to  
6 you.

7 Q So, Ward quit claims --

8 A No. At that point, on June 6, Latham says,  
9 gee, you are right, we still can't exercise that  
10 option, we don't have the money, we will release you  
11 from personal liability on the note. And he did  
12 that.

13 Q This is on June 6th?

14 A Yes. So now Ward is no longer personally  
15 liable on that note, and only the land secures it.  
16 So, Ward has the \$300,000 from that note at this  
17 stage, which he no longer has to pay back, and he has  
18 a \$300,000 note from Madison Financial.

19 Latham says at this point his mistake was  
20 that he did not get that \$300,000 note from Madison  
21 Financial back from Ward.

22 Q So Ward at this point is sitting there with

1 about 600,000?

2 A At this point he only has 300,000 which was  
3 secured by the land, and he has another 70,000 note  
4 which was secured by the land which he also has. So  
5 he has 370,000 at this point and a note for 300,000  
6 more. In December he quit claims the property back,  
7 satisfying both the \$300,000 note and a 70,000 note.

8 Q He is sitting there with 370 plus a note  
9 for another 300,000?

10 A Yes.

11 Q So he has about 670,000 when you add it all  
12 up?

13 A Yes. On September 2, 1987, he sues Madison  
14 on the \$300,000 note. On August 30, 1988, a two-day  
15 trial began, and at the end of that trial, a jury  
16 awarded a judgment to Mr. Ward.

17 Q In the amount of how much?

18 A There were other moneys that were at issue  
19 here. There was a \$35,000 that was referenced in the  
20 September 24th option agreement, the backdated one.  
21 He sued for that as well. He sued for \$335,000. He  
22 admitted that he had one note on which he still had

1 personal recourse that offset it, and then there were  
2 attorney's fees. The net judgment was about \$350,000  
3 to him after they offset the note and added in other  
4 fees that were owed to him.

5 So, he had about a \$350,000 judgment.  
6 Madison appealed that in late 1988. In 1989, while  
7 that appeal was pending, the RTC intervened in the  
8 case and removed it to federal court. At that point,  
9 the state court no longer had any jurisdiction.

10 However, there was -- the parties had,  
11 Madison, had put up a \$400,000 escrow amount to  
12 satisfy the judgment while it was on appeal. Despite  
13 the removal action, the state appellate court  
14 dismissed the case sometime in 1989 and Mr. Ward  
15 obtained the \$400,000 which were in escrow.

16 At that point now Mr. Ward has \$770,000,  
17 and RTC has a case pending in federal court. They  
18 are not only appealing the judgment in federal court  
19 but they are asking that this whole matter be  
20 reopened. They are trying to get a new trial.

21 That matter continues on until September  
22 30, 1993, at which time Ward and the RTC settle the

1 case. Ward pays the RTC \$325,000 and he gets a full  
2 release. The net effect of that is roughly that Ward  
3 walked away with \$455,000 out of the IDC transaction,  
4 roughly. That is how they are all related.

5 MR. GIUFFRA: Off the record.

6 (Discussion off the record.)

7 MR. GIUFFRA: Please mark this as an  
8 exhibit.

9 (Black Exhibit 3 identified.)

10 BY MR. GIUFFRA:

11 Q With regard to the billing records, the  
12 fact that the billing records disclose that  
13 Mrs. Clinton spent two hours on this option, what is  
14 the significance of that for purposes of the conflict  
15 analysis?

16 A Well, she billed two hours for drafting an  
17 option which became a critical document in the Ward v  
18 Madison litigation.

19 Q Meaning what was the intent of the option?

20 A The intent of the option --

21 Q Specifically what about the intent of the  
22 option?

1 A Latham was contending that the intent of  
2 the option was to cancel out all of the prior notes  
3 and was a way for Ward to get his commission. Had  
4 the jury believed that, accepted his version of the  
5 facts, it would not have awarded -- it would have  
6 awarded judgment to Madison rather than to Ward. So,  
7 the option is critical there.

8 The other way that the option is critical  
9 is that it was related to the final land transaction  
10 that was criticized by the regulator in the May 8  
11 interim exam report. This was the last property  
12 designed to be transferred as a part of the IDC  
13 deal. This is part of the property that he refers to  
14 as being warehoused. It was related.

15 Q As of the time you issued this report,  
16 August 3, 1995, you weren't aware of the fact that  
17 the Rose Law Firm had drafted this option agreement?

18 A That is correct. We had seen the option  
19 agreement.

20 Q But no one knew who drafted it?

21 A That's correct.

22 Q What was the testimony at the trial with



1 regard to who drafted it?

2 A There was no testimony at the trial on that  
3 issue.

4 Q So, the fact that the Rose Law Firm had  
5 drafted the option agreement would have been critical  
6 to the conflicts analysis or important to the  
7 conflicts analysis?

8 A It is important.

9 Q It is important because it would have shown  
10 involvement by the Rose Law Firm in setting up this  
11 transaction that the RTC was now involved in suing --  
12 was now in litigation with Ward over?

13 A It also related to the underlying defense  
14 of Frost in the litigation which concerned insider  
15 dealing.

16 Q Meaning that it indicated -- the fact that  
17 Rose was involved in preparing the option and the  
18 option might be construed by some as a way to provide  
19 money to an insider, i.e., Ward, indicates that  
20 Rose's own conduct might be at issue with regard  
21 to --

22 A The defense.

---

1 Q The defense that was being proposed by  
2 Frost; is that right?

3 A Yes.

4 Q Frost's claim was that --

5 A Frost's defense essentially was that it  
6 didn't matter --

7 Q Because the insiders were all corrupt and  
8 they were basically eluding the bank?

9 A Correct.

10 Q What this option shows is involvement by  
11 Rose in a transaction that might be construed in this  
12 eluding of Madison?

13 A It does not show in and of itself any  
14 knowledge by Rose that this transaction was part of  
15 that --

16 Q Of a fraudulent transaction?

17 A Yes.

18 Q It does show Rose at least as a factual  
19 matter drafted a document that was critical to an  
20 insider transaction?

21 A Correct.

22 Q That regulators have criticized as being a



1 sham?

2 A Correct.

3 MR. GIUFFRA: Off the record.

4 (Discussion off the record.)

5 MR. GIUFFRA: Mark this as Exhibit 4.

6 (Black Exhibit 4 identified.)

7 MR. GIBSON: The Federal Home Loan Bank  
8 60-day interim report to which Ms. Black was  
9 referring is dated May 8, 1986, and it is included as  
10 Exhibit 52 of volume 3 of the RTC OIG Rose Law Firm  
11 report, WA 94-16, and the specific language that she  
12 was referring to is contained on page 11 of that  
13 document.

14 BY MR. GIUFFRA:

15 Q The document I just showed you was  
16 something the Committee staff prepared in which we  
17 attempted to look at the billing records of the Rose  
18 Law Firm attorneys and to see whether there were  
19 correspondent communications. For example, if  
20 Mrs. Clinton had a conference with Rick Massey and  
21 billed for it, whether Mr. Massey on the same day  
22 would have billed for a conference with

1 Mrs. Clinton.

2 Have you attempted to undertake this sort  
3 of analysis?

4 A No, we have not.

5 Q If there were instances in which  
6 Mrs. Clinton billed for time and then there was no  
7 corresponding time on the part of the other lawyer  
8 with whom she had a conference, that would indicate  
9 greater billings by Madison, correct, or greater work  
10 by Madison?

11 A On behalf of Madison, you mean.

12 Q Greater work by Rose on behalf of Madison.

13 A Possibly. Just anecdotally, I will note  
14 that when I was looking at the bills, I did notice  
15 that sometimes Massey would bill for a conference  
16 with Clinton on, say, just to pick a hypothetical  
17 date, March 23rd, and you would see a conference that  
18 Clinton had billed with Massey on March 24th. It  
19 might be a day off. It might indicate more work  
20 done. It might indicate one attorney forgot to  
21 bill. It might indicate they got their dates wrong.

22 MR. PORTNOY: Or even a policy not to

1 double bill the client?

2 THE WITNESS: It wouldn't be double billing  
3 because they both had the conference. That is fair  
4 enough.

5 MR. PORTNOY: But a policy not to bill for  
6 two attorneys' time when they speak to each other.

7 THE WITNESS: If they had such a policy.  
8 But there were also instances where both of them  
9 did.

10 BY MR. GIUFFRA:

11 Q This is an issue you have not looked at?

12 A I have not looked at that issue.

13 Q We have gone through the issue of the  
14 conflicts between the billing statements and Ward's  
15 statements to you, the IG. Do you recall that? You  
16 are aware that there are some conflicts; correct?

17 A Mr. Ward contends he did not talk to  
18 Mrs. Clinton in connection with IDC at all, and we  
19 have several instances in which Mrs. Clinton billed.

20 Q You have 15 conferences?

21 A Fifteen.

22 Q So that is one issue. And there is the

1 question of whether Rose was representing Madison and  
2 Ward in connection with the IDC transaction.

3 A That I guess is a question. Rose has  
4 contended it did not, and I believe Mrs. Clinton has  
5 contended that she did not, and she billed Madison.

6 Q And one of the potential conflict issues  
7 with regard to Rose is the extent to which Rose's own  
8 conduct with regard to IDC might be called into  
9 question in the Frost litigation; right?

10 A Yes.

11 Q That's because of the fact that the Ward  
12 loans -- the question whether they should be included  
13 in the damage list?

14 A That and the initial acquisition of the IDC  
15 property and subsequent disposition of parcels of  
16 that property.

17 Q And the billing records become significant  
18 because they indicate the additional contacts between  
19 Rose and Mr. Ward and also the involvement of Ward in  
20 the drafting of the option agreement?

21 A Both of those are significant facts of the  
22 report.

1 Q Are there any other facts?

2 A It indicates -- well, we talked earlier not  
3 on IDC but on the -- not directly on IDC. It dealt  
4 with matter number 2, the knowledge of a 6 percent --

5 Q The fact that the partner was aware of the  
6 limitation?

7 A Correct.

8 Q That would be relevant to whether the -- to  
9 the question of whether the acquisition was  
10 structured in a way to circumvent the 6 percent  
11 limitation?

12 A Whether Rose was aware of it.

13 Q Which might be an issue in the Frost case?

14 A Yes.

15 Q Because Frost could then say well, your  
16 attorneys knew about this and therefore it didn't  
17 really matter what we did in the audit?

18 A That is correct.

19 Q It was almost a direct conflict?

20 A Yes.

21 Q An actual conflict. Can you say that or  
22 not, as your lawyer whispers in your ear?

1 A Pillsbury, Madison looked at that in their  
2 Frost report. They found it an actual conflict. I  
3 have no reason to disagree.

4 Q What happens is these records increase and  
5 strengthen the finding of an actual conflict?

6 A It would appear so.

7 Q Bates number RS 2826 to 2828 I show you.  
8 Have you seen this before?

9 (Witness examined the document.)

10 It is a memo from David Williams to Vincent  
11 Foster re: A possible FSLIC representation by Rose.

12 A Yes, I have seen not this physical document  
13 but we got a copy of this memorandum during the  
14 course -- from Rose during the course of our  
15 investigation. It may not have been redacted.

16 Q There is an indication here, at least on  
17 page 3, that Madison may have generated \$40,000 in  
18 annual fees to Rose. Do you recall seeing that?

19 A Yes, I do.

20 Q Was that reported in your report, that  
21 fact?

22 A I don't believe we focused on that fact.

1 Q As you sit here today, do you think this is  
2 a relevant fact with regard to the conflicts  
3 examination?

4 A I don't know where that figure came from,  
5 and I think that's why we didn't focus on it. It did  
6 not seem to be consistent with other documents that  
7 we had seen. I guess that's why we didn't focus on  
8 it.

9 Q You have seen -- RLF 203030 to 31. This is  
10 the final recap. You have seen that before; right?

11 A Yes.

12 Q The billing records allow you to -- this  
13 document was a way of determining how fee credits had  
14 been allocated among various Rose lawyers; correct?

15 A That's our understanding.

16 Q The billing records allow you to determine  
17 what work was done by these Rose lawyers in order to  
18 justify the fee credits?

19 A Yes.

20 Q So, for example, in January of '86 you have  
21 Mrs. Clinton at 2731.25 billed to stock offering on  
22 IDC, and the billing records allow you to see what

1 work at least in part she performed in order to  
2 support that fee?

3 A That is correct. If I can go back to a  
4 previous answer where we were talking about the  
5 amount, I don't think our investigation focused  
6 particularly heavily at all on a dollar amount. It  
7 wasn't just that that document was different than  
8 some of the others we had seen. We were looking at  
9 the work that was done.

10 Q The work was more important than the  
11 amount. The dollar amount becomes important to  
12 determine the extent of the work?

13 A Yes. A raw dollar figure like that doesn't  
14 do a lot.

15 Q It is not very helpful?

16 A Not very helpful.

17 Q But the billing records you would agree are  
18 very helpful --

19 A Yes.

20 Q -- in determining what Rose did or didn't  
21 do?

22 A Yes, because it has a description of the



1 services and the matters and so forth.

2 Q Are you familiar with the role of a buyer's  
3 attorney in a real estate deal?

4 A I am not a real estate attorney.

5 Q But you at least -- if Rose had some  
6 potential liability, for example, with regard to how  
7 it handled the closing of the IDC transaction, that  
8 might be relevant to a conflicts analysis?

9 A Yes.

10 Q Did you make any determination to see  
11 whether -- strike that.

12 Should an attorney in handling a closing of  
13 a real estate transaction on behalf of a buyer  
14 attempt to ascertain whether that transaction is in  
15 compliance with state law, federal law?

16 MR. PORTNOY: She just testified that that  
17 is outside her area of expertise.

18 MR. GIUFFRA: It becomes relevant to the  
19 conflicts analysis. She just said it was relevant to  
20 the conflicts analysis.

21 THE WITNESS: We attempted to ascertain  
22 what Mr. Thrash did. His memory was very vague.

---

1 BY MR. GIUFFRA:

2 Q Did you attempt at any time to ascertain  
3 what he should have done?

4 A I think our view was that we would leave  
5 that to RTC legal.

6 Q So you didn't make any -- wouldn't what he  
7 did or what he should have done be relevant to the  
8 conflicts analysis?

9 A We did not undertake a legal analysis of  
10 what he should have done. I would expect RTC to do  
11 that. That really goes more to an issue of liability  
12 and defenses to it, and that study is being done by  
13 Pillsbury, Madison.

14 Q Wouldn't one of the claims potentially that  
15 Frost would make in the litigation of RTC be at least  
16 in connection with the IDC transaction, it was the  
17 Rose Law Firm that was down on the job, not Frost?

18 A That was a possible defense.

19 Q So the failure of the Rose Law Firm to see  
20 to it that Madison was acting in compliance with the  
21 direct investment rule potentially contributed to the  
22 loss that was suffered by Madison and also the

1 damages that would be suffered by --

2 A That is an argument that Frost could make.  
3 In terms of our reporting for a conflict analysis,  
4 all we needed to do was identify that that was a  
5 possible argument. As to whether or not it was going  
6 to be successful, I would defer to RTC.

7 Q I'm not interested in whether it would be  
8 successful.

9 A We identified it as a possible argument.

10 Q What would be the possible argument Frost  
11 could make in the litigation with the RTC with regard  
12 to the failure of Rose to see to it that Madison  
13 complied with the direct investment rule?

14 A Frost in fact did argue that the insiders  
15 in Madison were going to do what they wanted to do  
16 regardless of what Frost might have said in its  
17 reports and that therefore what it did was  
18 irrelevant. We were aware of that.

19 To the extent that the firm which was  
20 prosecuting that claim for the RTC was involved in  
21 any of those transactions, knowingly or otherwise,  
22 that was a matter that we considered subject to

1 disclosure, required disclosure by Rose.

2 Q And the reason why it was subject to  
3 required disclosure by Rose?

4 A The ethical rules applying to an attorney  
5 indicate that where an attorney's own conduct could  
6 be called into question in a case, that raises the  
7 issue of a conflict, and RTC's -- that was a  
8 potential in this case, and RTC's rules require all  
9 potential conflicts to be disclosed.

10 Q The potential --

11 MR. PORTNOY: I want to clarify. What the  
12 potential issue is that you are identifying, is --

13 THE WITNESS: That the attorney's own  
14 conduct could be called into question.

15 MR. PORTNOY: But the conduct in question  
16 is not that Rose somehow affirmatively failed in  
17 misconduct but rather failed to prevent misconduct by  
18 insiders?

19 MR. GIUFFRA: It could be both.

20 THE WITNESS: It could be either.

21 MR. PORTNOY: That's what I'm asking.

22 BY MR. GIUFFRA:

1 Q On the one hand, the failure to disclose  
2 could be the fact that Rose was involved in these  
3 transactions that were fraudulent insider  
4 transactions. That's one issue.

5 A Yes.

6 Q The second issue would be that Rose acted  
7 negligently and failed to see to it that Madison and  
8 Madison Financial adhered to the direct investment  
9 law?

10 A Those were arguments which could have been  
11 raised by Frost. It doesn't mean that they would  
12 have been successfully raised by Frost. We did not  
13 need to reach that evaluation.

14 MR. PORTNOY: That is Pillsbury's job to  
15 evaluate that?

16 THE WITNESS: Yes.

17 BY MR. GIUFFRA:

18 Q The argument that could be made, at least  
19 with regard to the Frost representation, that because  
20 Rose had this conflict where its own conduct might be  
21 at issue, they did not aggressively prosecute the  
22 case against Frost?

1 A The purpose of the model rules which are in  
2 place in Arkansas are to make sure that an attorney  
3 does vigorously, zealously prosecute the interests of  
4 his client and --

5 Q If the defense is going to be that the  
6 attorney's own conduct caused the loss, the attorney  
7 might not prosecute the case as aggressively?

8 A That would be the concern, and the concern  
9 the model rules address.

10 Q This is RS 749 to 769. Please take a look  
11 at that.

12 (Witness examined the document.)

13 Have you ever seen this document before?  
14 This is a memo from Foster to all attorneys at the  
15 Rose Law Firm regarding FSLIC representation. Have  
16 you seen this?

17 A I believe we have.

18 Q If I could direct your attention to page  
19 768, this was in terms of Madison perhaps getting  
20 involved in representing the FSLIC with regard to  
21 possible claims against directors and officers of the  
22 thrift.



1 A Yes.

2 Q So, if a Rose lawyer was involved in a  
3 business relationship -- strike that. If a partner  
4 was in an investment with, for example, the  
5 McDougals, that would have been something that the  
6 Rose partners should have disclosed in response to  
7 this memo?

8 MR. PORTNOY: Does the witness have any  
9 expertise in interpreting internal law firm  
10 documents? This is a letter I believe you said --

11 MR. GIUFFRA: If she doesn't have  
12 expertise, she will tell us. She has done that  
13 throughout the day.

14 THE WITNESS: I don't think the question  
15 went to the interpretation of the documents but  
16 rather whether it was reportable.

17 MR. PORTNOY: I'm sorry. Whether what was  
18 reportable?

19 THE WITNESS: The relationship he  
20 hypothesized, which was a business relationship with  
21 someone listed on a FSLIC conflicts list.

22 MR. GIUFFRA: Off the record.

1 (Discussion off the record.)

2 THE WITNESS: My problem is I don't know  
3 what FSLIC's requirements were in terms of disclosure  
4 for individuals listed on their conflicts list, and  
5 this is a FSLIC conflicts list. I am somewhat  
6 hard-pressed to answer that question. I just don't  
7 know what their requirements were.

8 BY MR. GIUFFRA:

9 Q Would this have been something that would  
10 have been reportable under the RTC's requirements  
11 subsequent to November 1, '88?

12 A I think it would have depended on what the  
13 relationship was. Sometimes RTC would send out a  
14 list saying report any representation of. So, it  
15 would depend on that the specifics.

16 Q Have you reviewed the transcript of the  
17 Ward versus Madison case?

18 A Yes, I have.

19 Q Is there any mention of Mrs. Clinton in  
20 that transcript?

21 A There is not.

22 Q In 1988, you would agree that --



1 A Oddly enough, the copy I have happens to be  
2 missing one page. Given what was being discussed, I  
3 don't think it likely that that would have come up  
4 there, but I am missing one page.

5 Q In 1988, there was at least the Ward versus  
6 Madison case, correct, that was pending?

7 A Yes. RTC was not yet a party to that until  
8 '89.

9 Q Madison had been taken over by FSLIC?

10 A FDIC and then RTC substituted shortly  
11 thereafter.

12 Q FDIC took over in what year?

13 A '89, February.

14 Q So, do you have any knowledge with regard  
15 to how long lawyers normally maintain documents  
16 regarding representations of S&Ls, client files?

17 A No, I don't.

18 Q It is not a subject you are familiar with?

19 A No.

20 MR. GIUFFRA: I don't have any further  
21 questions. Thank you very much.

22 MR. GIBSON: Off the record.

1 (Recess.)

2 EXAMINATION

3 BY MR. PORTNOY:

4 Q I think in candor I have to say good  
5 evening.

6 A Yes, it is approaching that time.

7 Q My name is Jim Portnoy. We have done this  
8 before, but I will just repeat for the record that I  
9 will be asking a few questions for the Minority.  
10 With me is Paul Weech, also of the Minority staff on  
11 the Banking Committee.

12 When you were asked to first review the  
13 Rose Law Firm's representation of the RTC, what was  
14 the specific task that you were asked to undertake?

15 A We undertook an investigation into possible  
16 conflicts by the Rose Law Firm in its representation  
17 with respect -- with respect to its representation of  
18 the RTC and initially the FDIC when the FDIC first  
19 began acting as receiver, conservator for savings and  
20 loans.

21 Q Were you asked to essentially compile a  
22 documentary record?

1 A We were asked to investigate it. That's  
2 the extent of what we were asked to do. Our ordinary  
3 method of investigation is to go out and uncover the  
4 facts through interviews, through document  
5 production, and then we compile a report which  
6 recites those facts and attaches the support for the  
7 recitation of facts, the write-ups of interviews or  
8 transcripts if they are transcribed, the statements  
9 and the documents that we find.

10 Q Were you asked to reach any conclusions  
11 with respect to the facts that you developed?

12 A No, we were not.

13 Q In your view, did you reach any conclusions  
14 with respect to the facts that you developed?

15 A We reported the facts. We did not reach  
16 any conclusion as to, for example, whether a given  
17 set of facts constituted an actual conflict or a  
18 potential conflict. We did reach the conclusion that  
19 sets of facts which we found constituted actual or  
20 potential conflicts in a certain number of cases.

21 Q And you then reported that information to  
22 whom?

1 A The report was issued to Mr. Ryan, who was  
2 then CEO of the RTC.

3 Q It was Mr. Ryan's job or the RTC's job to  
4 determine what use, if any, to make of the findings  
5 in your investigation?

6 A That is correct. We issued the report with  
7 a transmittal letter which suggested that RTC do  
8 certain things, that Mr. Ryan do certain things,  
9 which were to refer our report to the legal division  
10 for review in determining whether actual or potential  
11 conflicts existed and what to do, if anything, about  
12 that.

13 We also in this instance suggested that our  
14 report be referred to RTC's outside counsel, which we  
15 knew then to be investigating questions of liability  
16 concerning the Rose Law Firm, and although our  
17 investigation was a conflicts investigation,  
18 inevitably it disclosed facts which we believed would  
19 be of interest to the outside counsel as well.

20 Q To your knowledge, were your  
21 recommendations followed?

22 A Yes, they were.

1 Q So, your report was referred to the outside  
2 counsel?

3 A Yes, it was.

4 Q And that was Pillsbury, Madison?

5 A Yes.

6 Q What is your understanding of Pillsbury,  
7 Madison's responsibility with respect to the material  
8 that you provided to them?

9 A Pillsbury, Madison issued a report in  
10 connection with the Frost & Company litigation. That  
11 report did a couple of things. One, it determined --  
12 it reviewed the matter of whether the facts that we  
13 had found presumably in connection with anything they  
14 knew of as well, but it relied very heavily on our  
15 report, gave rise to any liability in connection with  
16 Rose's litigation of the Frost lawsuit. They  
17 reviewed the conflicts issues as well.

18 Q It was outside counsel, Pillsbury,  
19 Madison's responsibility to make recommendations and  
20 determinations as to whether any further action  
21 should be taken based upon the information that you  
22 developed?

1 A I don't know what their agreement with RTC  
2 was, but they issued a report which did not recommend  
3 pursuing any monetary recovery with regard to Rose's  
4 representation on the Frost litigation, and that  
5 report also said that they found three instances of  
6 direct conflicts from the facts that we reported and  
7 one instance of a potential conflict, all of which  
8 should have been reported to the RTC.

9 Q Did you have any reason to take issue with  
10 either Pillsbury's findings or its recommendations as  
11 to how the RTC should proceed?

12 A I think we considered that their decision  
13 and not our role.

14 Q You have looked at reports?

15 A Yes, we did, and we looked at it to see  
16 whether they had considered what we put before them,  
17 and they had.

18 Q In your view, they had considered what you  
19 put before them?

20 A Yes.

21 Q They conducted some additional  
22 investigation also, didn't they?



1 A Yes, they did. There were interviews  
2 conducted in addition to the ones that we had  
3 conducted, probably interrogatories. There was  
4 additional work performed by them, yes.

5 Q It would be fair to say that Pillsbury had  
6 before it, in reaching its conclusions, the full  
7 range of information that you developed and even some  
8 additional information?

9 A That is correct.

10 Q And it was their job based on that  
11 determination to recommend whether the RTC take any  
12 further action or not?

13 A That is correct, particularly as regards  
14 the liability issue. I don't know that they made  
15 recommendations on the conflicts issue. They simply  
16 found conflicts.

17 Q And then decided whether based upon that  
18 finding it would be in the interest of the RTC to  
19 take any further action?

20 A It was more oriented toward whether it  
21 would be in the interest of RTC to pursue a lawsuit  
22 against them, against Rose, and they found not.

1 There are other actions, obviously, which can be  
2 taken that they did not address.

3 Q Did you view your role with respect to the  
4 billing records at that time we have been discussing  
5 here today as a continuation of the same?

6 A Yes, with the addition of saying how it  
7 would have impacted our report. That's a little bit  
8 of a different twist.

9 Q You began reviewing the new records at the  
10 request of the Chairman; is that correct?

11 A Yes.

12 Q Did you also receive a request internally?

13 A No.

14 Q So, as a formal matter, the impetus for  
15 your review of the records was Chairman D'Amato's  
16 request?

17 A That is correct. The IGs regularly  
18 undertake work at the request of Congress, if that  
19 work is within their jurisdiction. They might  
20 undertake work at the request of people within the  
21 agencies, undertake work on our own initiative, at  
22 the request of a citizen. There are various means,



1 all of which are perfectly appropriate.

2 Q With respect to the billing records, could  
3 you please explain the process by which your office  
4 reviewed them, what you did, what others did, what  
5 you viewed the request you were answering to be.

6 A We received the records from the committee,  
7 and I reviewed those records in connection with what  
8 we had done before. I hasten to point out that our  
9 review is not complete. We do not have a work  
10 product. We are not finished with our analysis yet.  
11 So this is a work in progress.

12 Q Do you have a draft report in existence?

13 A No, we do not.

14 Q Do you have a sense of when that might come  
15 into existence?

16 A No, I do not. I reviewed the billing  
17 records. Both the auditor and the investigator who  
18 worked on the case reviewed them, the chief auditor  
19 and the investigator. Various other people within  
20 the office who had been involved with the case also  
21 reviewed the records. I was looking at it from the  
22 standpoint of the impact the additional information

1 might have had on our report.

2 MR. GIBSON: Can I go off the record?  
3 (Discussion off the record.)

4 BY MR. PORTNOY:

5 Q You didn't conduct the interviews, did you?

6 A No, I did not.

7 Q You reviewed the interview, either  
8 transcripts or statements?

9 A That is correct.

10 Q Did you draft the report?

11 A I drafted portions of the summary in  
12 volume I. I was certainly involved in the editing  
13 process of the entire report.

14 Q Is there someone you would describe as the  
15 principal author?

16 A Of the report?

17 Q Yes.

18 A We had various agents who authored  
19 different segments of it.

20 Q Your job was to bring it into a coherent  
21 whole?

22 A Pull it together, yes.

1 Q To the extent anything of this many volumes  
2 can ever be coherent.

3 You have changed jobs since this report was  
4 prepared?

5 A Yes. I was counsel to the RTC Inspector  
6 General at the time this report was prepared. The  
7 RTC no longer exists, and I was an FDIC employee with  
8 fallback rights to the FDIC. I am now with the FDIC  
9 IG's office as an assistant IG.

10 Q Would this kind of report still be within  
11 your normal duties?

12 A Yes. The FDIC IG is successor in interest  
13 to the RTC IG, and as far as ongoing RTC work, that  
14 work is handled by the people who were working on it  
15 before. So, I have a lot of ongoing RTC work where  
16 my duties remain the same as they were on December  
17 31st.

18 Q Earlier you provided us with a document  
19 that has been captioned Exhibit 3, and it is a  
20 chronology of events.

21 A Yes. Someone made off with my copy, so I  
22 don't have it anymore.

1 Q Allow me to lend you mine. Did you prepare  
2 this?

3 A Yes, I did.

4 Q Did anybody else assist in its preparation?

5 A I sat and typed it myself at my own  
6 computer.

7 Q Do you recognize the font?

8 A And the abbreviations.

9 Q Did you prepare for your testimony by  
10 speaking with anyone else?

11 A I spoke with counsel concerning my  
12 testimony.

13 Q Aside from counsel?

14 A No. Obviously we are talking in the office  
15 because our report is an ongoing report, and one  
16 cannot do a report in a vacuum. So to the extent  
17 that my testimony reflects the report, the work that  
18 we are doing to generate that, then of course I have  
19 talked to a lot of other people.

20 Q The last time we were across this table,  
21 there had been a meeting to compare recollections and  
22 try to nail down some dates.

1 A No similar meeting occurred in this case.  
2 I met, as I said, with counsel on the substance of my  
3 testimony. Both Mr. Switzer and I met jointly with  
4 counsel for counsel to go over the rules of the  
5 deposition, but not the substance of our testimony at  
6 all. He met separately with us on that.

7 Q The Minority certainly recognizes the  
8 propriety of joint representation.

9 A Having gotten to answer about 20 minutes of  
10 questions about that the last time, I didn't want to  
11 do so this time.

12 Q In the course of your responsibilities with  
13 the preparation of the initial report and again the  
14 review of the billing records, did you provide legal  
15 advice --

16 A Yes.

17 Q -- concerning legal ethics?

18 A I provided advice concerning the ethical  
19 requirements applicable to lawyers, both through the  
20 model rules which govern us and with regard to the  
21 applicability of RTC's and FDIC's own specific rules,  
22 which are over and above the model rules.

1 Q Have you had any particularized training  
2 with respect to the model rules?

3 A The typical training that all lawyers  
4 receive.

5 Q Anything in addition to that?

6 A No.

7 Q Did you receive any particularized training  
8 in the RTC's rules?

9 A Particularized training, no. I worked with  
10 them regularly, because we have long conducted audits  
11 of legal services and a conflicts check is always a  
12 part of that.

13 Q You were asked by Mr. Giuffra about the  
14 scope of your document requests or subpoenas to the  
15 Rose Law Firm and other parties.

16 A Yes.

17 Q I believe you testified that you sent a  
18 subpoena or the agency sent a subpoena to the Rose  
19 Law Firm in March of 1994?

20 A Yes.

21 Q It was your view that these billing records  
22 would have been covered by that subpoena?

1 A Yes.

2 Q Do you have any reason to believe that the  
3 Rose Law Firm had possession of the billing records  
4 at that time?

5 A The Rose Law Firm has consistently told us  
6 that it did not have those records.

7 Q Do you have any reason to doubt what they  
8 have told you?

9 A There have been several documents which  
10 were not produced pursuant to our subpoena which have  
11 subsequently, after the close of our investigation,  
12 been found by Rose, and their counsel has produced  
13 those to us intermittently.

14 I recognize that there are large volumes of  
15 documents through which they have had to go, and that  
16 sometimes things have not been found in that  
17 process. That is clear they have produced them to us  
18 subsequent to our investigation.

19 I have no particularized reason to believe  
20 that these particular records might exist.

21 Q Do you have any reason to believe that any  
22 documents were affirmatively withheld from you?

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1 A No.

2 Q Is it normal in the course of an  
3 investigation for documents that were overlooked in  
4 the past to show up?

5 A Not normal, no. We normally get the  
6 documents we ask for at the time. That's the normal  
7 course.

8 Q Have you ever before conducted an  
9 investigation that took this long?

10 A Yes, we have.

11 Q Would you say that the scope of this  
12 investigation was fairly broad?

13 A I don't know if the scope was broad. The  
14 scope was fairly specific, to review and to  
15 investigate conflicts, actual or potential conflicts  
16 that the Rose Law Firm may have had in connection  
17 with its representation of the RTC. The Rose Law  
18 Firm had represented the RTC on Madison, which we  
19 have discussed, and another 16 institutions, I  
20 believe. So there were a lot of records to go  
21 through.

22 The scope was relatively narrow. The



1 volume of documents was relatively large.

2 Q Your report, I believe, was divided into  
3 four or five volumes, each of which has a number of  
4 sub volumes?

5 A That is correct.

6 Q And the ultimate documentation probably  
7 consumes 25 or 30 bound volumes, including the  
8 report?

9 A Probably close -- I want to say 40. It is  
10 very large. It is a large report.

11 Q Turning back to the subpoena, your  
12 recollection was that the subpoena called for  
13 documents in the custody or control of the Rose Law  
14 Firm?

15 A The subpoena was directed to the Rose Law  
16 Firm and ordered them to produce documents. I cannot  
17 give you the precise language. I think it fairly  
18 clearly in the course of any subpoena, one cannot  
19 just put documents somewhere else and say now I don't  
20 have them anymore. If they are in the legal custody  
21 or control of an entity, they should be produced.

22 Q Certainly, but documents can leave the

1 custody and control of somebody before a subpoena is  
2 served for perfectly innocent reasons?

3 A Correct.

4 MR. GIBSON: I want to clarify for the  
5 record and be certain we are talking about the March  
6 15, 1994 subpoena that was issued by the RTC  
7 Inspector General. We have talked about a lot of  
8 subpoenas in here today, but we are now talking about  
9 the RTC IG's subpoena?

10 MR. PORTNOY: That was my understanding.

11 THE WITNESS: Yes.

12 BY MR. PORTNOY:

13 Q Have you ever specifically requested  
14 documents from former partners of a law firm?

15 A I cannot recall having done so. I don't  
16 believe -- if you are asking have we ever issued a  
17 subpoena to a former partner of a law firm, I do not  
18 believe that the RTC IG has ever done that. It does  
19 not mean that we could not.

20 Q You were asked a broad range of questions  
21 about the billing records, and you were asked a  
22 number of times whether you considered information in

1 the records to be important.

2 A Yes. "Significant" I think was the term  
3 that was used typically.

4 Q "Significant" or "important" were both used  
5 at varying times, and you described a great deal of  
6 the information in the billing records as important.

7 A Yes.

8 Q I believe you probably went nearly so far  
9 as to say virtually everything in the billing records  
10 is either important or significant.

11 A Well, I don't know about virtually  
12 everything. There is a great deal of information  
13 which falls into that category.

14 Q What did you mean when you said that the  
15 information was important or significant?

16 A Again, remembering what our initial charter  
17 and our current charter both have been, it was to  
18 review and to investigate potential conflicts, actual  
19 and potential conflicts that the Rose Law Firm may  
20 have had. Conflicts arise because of past  
21 representation or interest in a matter.

22 The information in the billing records

1 gives substantial detail on Rose's prior  
2 representation of Madison Guaranty. That is highly  
3 relevant to a conflicts analysis of their subsequent  
4 representation of the RTC in trying to recover moneys  
5 on behalf of the failed institution, Madison  
6 Guaranty.

7 Q And that was the conflicts analysis that  
8 was performed by Pillsbury, Madison?

9 A Pillsbury, Madison looked at it. I believe  
10 RTC did too. It has a conflicts committee that  
11 looked at it.

12 Q Would it be fair to say that when you  
13 described information as important or significant,  
14 that you meant that it was information that the RTC  
15 or Pillsbury, Madison would want to know?

16 A It is information -- I was looking more at  
17 our report. We have to make judgments about what  
18 goes in our report, obviously. In any kind of an  
19 investigative report, this is information that we  
20 would have deemed --

21 Q You have used the word "reportable."

22 A Well, I mostly used the word "reportable"

1 in saying that it was disclosable to RTC, I thought,  
2 but that it would have been reportable in our report,  
3 yes.

4 Q If you had the information, you would have  
5 included it?

6 A Yes.

7 Q You didn't mean to suggest, did you, that  
8 the fact that you would have included that  
9 information necessarily led to any conclusion?

10 A No. Our report did not reach conclusions.  
11 We did not -- it did reach conclusions insofar as we  
12 ascertained that there were actual or potential  
13 conflicts with regard to seven institutions. Madison  
14 was one of them. It did not reach the conclusion  
15 that a given piece of evidence indicated a conflict  
16 or that a given conflict was an actual versus a  
17 potential conflict. That we left to the RTC.

18 Q Were there any additional conflicts that  
19 you believe may have existed, either actual or  
20 potential, as a result of your review of the billing  
21 records?

22 A There is certainly additional aspects.

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1 Whether it is a whole additional conflict, I don't  
2 know. The representation on IDC was different than  
3 we thought and more extensive.

4 Q Was it your view that the representation of  
5 IDC might have created an actual or potential  
6 conflict?

7 A Our view was only as to the initial  
8 closing. That is pretty much what we looked at. We  
9 found that that was something which should have been  
10 disclosed to the RTC. We did not know about the  
11 subsequent representation in the subsequent  
12 transactions. I'm referring to the May 1 option  
13 agreement. I think that is a separate problem.

14 Q Are you aware that Pillsbury, Madison  
15 looked at the potential conflict issues arising out  
16 of the May 1 option?

17 A They had not, as of the report that I saw.  
18 They certainly didn't from our report, because we  
19 didn't know about it. Wait a minute. Let me back  
20 up.

21 The report that I saw that they did said we  
22 have this option, we don't know what it means and we



1 are holding it open to look at that more. That is my  
2 understanding where they still were.

3 Q Would it be fair to say that the billing  
4 records with respect to the May 1st option disclose  
5 that the Rose Law Firm worked for, I believe it was  
6 two hours on the option, all told?

7 A I don't know that that is -- I would have  
8 to go back to the record. I believe that is correct  
9 with regard to the line that says "draft option  
10 agreement." There were several other phone calls  
11 which may well be related, but the substance of those  
12 conversations are not described.

13 One of those conversations occurs between  
14 Mrs. Clinton, Ward and a guy named Schafley, who is  
15 identified elsewhere as Ward's personal accountant.  
16 Those may well be related. But because we don't know  
17 the substance of those conversations, we cannot say  
18 for certain that they are.

19 Q Based on your review of the billing  
20 records, what can you say about the Rose Law Firm's  
21 representation of Madison Guaranty with respect to  
22 the May 1st option?

1 A We know that they drafted it, that it was  
2 drafted by the Rose Law Firm, which we did not know  
3 before. There appear to have been conversations,  
4 telephone conferences which related to it. And  
5 that's about the extent of what we can say.

6 Q So if Pillsbury, Madison had analyzed the  
7 May 1st option based on the assumption that the Rose  
8 Law Firm had drafted it, would it be your view that  
9 the billing records add any material information that  
10 would have been pertinent to their analysis?

11 A Well, you have to remember that we are  
12 looking at the billing -- the question we were asked  
13 was about the billing records, how would they have  
14 impacted our investigation. I believe I responded  
15 before that it is difficult to go back and say how  
16 would you have investigated differently had you known  
17 this, almost as difficult as to go back and redo the  
18 case. Questions definitely would arise from these  
19 billing records that were not asked.

20 So, I don't think you can in a vacuum say  
21 what impact would just this record have. We might  
22 have -- we would have asked other questions. We



1 would have used these records to try to refresh the  
2 recollection of witnesses. We would have pursued  
3 other documents had we known about them. Therefore,  
4 our report would have been affected.

5 Q Would it be fair to say that the single  
6 most material fact with respect to the May 1st option  
7 that you learned as a result of your review of the  
8 billing records was that the Rose Law Firm  
9 participated in drafting it?

10 A Without getting into -- I am somewhat  
11 uncomfortable with "single most important," "most  
12 critical," the same problem I had earlier when the  
13 Majority was questioning me.

14 It is an important fact, but you also have  
15 to see that in relation to what happened later, the  
16 litigation, the impact of that fact and some others  
17 that are reflected in the billing memo.

18 Q You also were asked about litigation with  
19 the Rose Law Firm concerning a subpoena for a list of  
20 client names.

21 A Yes.

22 Q And you indicated that after a series of

1 motions and actions, eventually the subpoena was  
2 enforced?

3 A That's correct.

4 Q Was it enforced without restriction?

5 A Yes, it was. We voluntarily entered into a  
6 confidentiality undertaking where we agreed in  
7 writing to hold that information extremely  
8 confidential. We indicated in that confidentiality  
9 agreement that we would not agree to hold it  
10 confidential from the Department of Justice, from the  
11 Independent Counsel. We would not agree to hold any  
12 hits, if you will, names which did appear to be a  
13 conflict confidential.

14 But we spelled out exactly how we intended  
15 to use that information. We did that voluntarily,  
16 and the court looked at that and said that the court  
17 could draft in more effective protection than we had  
18 offered. The court expected us to abide by our  
19 word. We would have done that anyway, of course.

20 Q At what point in the process did you  
21 propose to implement confidentiality restrictions?

22 A We had a confidentiality restriction that

1 we offered at the outset. During the course of the  
2 litigation, the court expressed concern in particular  
3 that we did not restrict use or free access to that  
4 list to other federal agencies, and we addressed that  
5 concern in the final confidentiality agreement.

6 The court also expressed concern about  
7 maintaining the list in perpetuity, if you will, in a  
8 government file somewhere, and we considered that and  
9 ultimately concluded that we did not need to do  
10 that.

11 We agreed that when we finished with the  
12 list, we would turn the list over to the court itself  
13 for safekeeping.

14 Those were issues that we did not have that  
15 much trouble resolving. The primary contention was  
16 that Rose did not want us to have that list at all.  
17 They wanted to maintain custody of it themselves. We  
18 would have had to go in and ask for it. We could not  
19 take it with us to do on-site work with the records.  
20 Rose also did not want to allow us to disclose it to  
21 anyone else. We felt that under the IG Act, we had  
22 an obligation to disclose it, anything to the

1 Independent Counsel that might be needed. So, those  
2 were significant areas of contention.

3 There was a third area of contention, off  
4 the top of my head, I can't recall. But those were  
5 significant areas of contention that persisted  
6 through the final day of litigation.

7 Q Would it be fair to say, though, that the  
8 subpoena when it was enforced was subject to greater  
9 restrictions than it was when you first issued it,  
10 that the use of the information was subject of  
11 greater restrictions than when you first issued the  
12 subpoena?

13 A I would say that we agreed to put  
14 additional safeguards on the use of that  
15 information. But we were very unrestricted in our  
16 ability to use it. A very critical point was we felt  
17 we had to physically have custody of that list in  
18 order to do our work. Otherwise, if we have to go  
19 ahead and say hey, can we see page 32 of the list,  
20 obviously the subject of the investigation knows  
21 precisely what we are doing. That is not an  
22 appropriate investigative technique.

1 Q Was it the Rose Law Firm which first raised  
2 concerns about your perceived lack of safeguards on  
3 the use of the information?

4 A We were sensitive from the outset to the  
5 fact that this was -- while we did not consider it  
6 privileged information, nor did the court, that it  
7 was sensitive information, if you will, and we told  
8 them from the outset that we would hold it extremely  
9 confidentially.

10 Q I guess my specific question was whether  
11 they first raised concerns about the lack of  
12 safeguards.

13 A What I'm saying is we knew there had to be  
14 safeguards from the outset.

15 Q But the safeguards that were ultimately  
16 implemented were greater than the ones that you  
17 initially suggested?

18 A Yes. We responded there to the court, the  
19 court's concerns.

20 Q Were those concerns brought to the court's  
21 attention by counsel for the Rose Law Firm? I  
22 presume you didn't.

1 A Actually, I don't -- the question of  
2 maintaining in perpetuity, I believe the court raised  
3 on its own. The concern about dissemination or  
4 access by the federal agencies I believe was in fact  
5 raised by Rose counsel. The other concerns that were  
6 raised by Rose counsel we simply could not abide by.  
7 And the court found that we did not have to abide by  
8 them.

9 MR. GIBSON: Before we move on, let me ask  
10 a couple questions of the witness on this subject.

11 MR. PORTNOY: Please do.

12 MR. GIBSON: Pat, did the court deny access  
13 to any of the information that was requested under  
14 the subpoena?

15 THE WITNESS: It did not. It granted us  
16 access to all of the information.

17 MR. GIBSON: And during the course of the  
18 motions in this case, did the Rose Law Firm request a  
19 protective order?

20 THE WITNESS: Yes, it did.

21 MR. GIBSON: What was the court's action  
22 with respect to that protective order?



1 THE WITNESS: The court did not impose a  
2 protective order.

3 MR. GIBSON: Jim, that's all I have for  
4 now. Thank you.

5 THE WITNESS: I might add that in the  
6 litigation of the case, if you are concerned about  
7 what Rose did or did not agree to, what was or was  
8 not of concern, Rose opposed granting us access to  
9 this information under our confidentiality  
10 undertaking. It opposed it vigorously.

11 BY MR. PORTNOY:

12 Q Under the confidentiality undertaking that  
13 ultimately was imposed?

14 A Yes, sir, was agreed to. And the court  
15 granted us access under that. Yes, they opposed it  
16 to the very end and said that it would be an  
17 absolutely unacceptable resolution of the case to  
18 them.

19 Q You were asked at some length about the  
20 direct investment rule.

21 A Yes.

22 Q I believe you were shown billing records

1 which indicate that Mrs. Clinton reviewed a  
2 memorandum which mentioned the direct investment  
3 rule.

4 A The amendments to the agreement. There was  
5 a letter I believe by Mr. Massey that was involved, a  
6 June 17 letter.

7 Q Is that the June 17 billing entry by  
8 Mrs. Clinton that reads "review of application  
9 amendments"?

10 A Yes.

11 Q Did you find any other evidence to suggest  
12 that Mrs. Clinton had knowledge of the direct  
13 investment rule?

14 A There were -- during the time when  
15 Mr. Massey was researching this, there were  
16 conferences back and forth between Mr. Massey and  
17 Mrs. Clinton that might suggest that he was  
18 discussing the subject of his -- the subject of his  
19 research with his superior within the law firm. But  
20 I do not know that for a fact. It suggests, but the  
21 description is insufficiently precise to establish  
22 that.



1 Q So there is nothing else in the records  
2 that directly suggests that Mrs. Clinton had  
3 knowledge of the direct investment rule?

4 A Again, I think it suggests. It does not  
5 establish. Also not in the billing records, but  
6 there is a June 10, 1985 letter from Mr. Massey which  
7 responds to -- it is July 10, 1985 letter responding  
8 to a June 18, '85 memo from Mr. Handley, which again  
9 goes into the direct investment and prior supervisory  
10 agent approval. On that letter, the final paragraph  
11 is "should you have questions, please call Hillary  
12 Rodham Clinton," and a number.

13 Q I believe you testified earlier that that  
14 was the federal direct investment rule rather than  
15 the state direct investment rule?

16 A That particular letter addressed the  
17 federal direct investment rule and the prior  
18 supervisory agent approval, which was also a federal  
19 requirement.

20 There is a reference in numbered item 2 in  
21 that letter which goes to the assets held by the  
22 institution. That appears to be responsive to

1 numbered item 2 in Mr. Handley's June 18 memorandum.  
2 The reason the total assets become important are that  
3 the 6 percent rule is 6 percent total assets. So, he  
4 was again addressing that. And Mr. Handley specifies  
5 the 6 percent limitation.

6 So, the July 10 letter goes both to the 6  
7 percent rule in numbered item 2 and the federal  
8 direct investment rule as well as prior supervisory  
9 approval in item 3. It addresses both of them.  
10 There are no attendant billing entries that I could  
11 identify with the July 10 letter.

12 Q There are no billing entries that indicate  
13 to you that Mrs. Clinton actually reviewed these  
14 documents?

15 A There are no billing entries that indicate  
16 that. She is referenced in the letter as being  
17 someone to contact if they have questions about the  
18 letter.

19 Q Do you have any evidence that she was in  
20 fact contacted to discuss the letter or its contents?

21 A No, I don't.

22 Q So, it would be fair to say that there is a

1 letter that makes reference to the direct investment  
2 rule written by Mr. Massey and referencing a  
3 memorandum by Mr. Handley but there is no evidence  
4 that Mrs. Clinton ever actually saw those documents?

5 A Well, the letter also references  
6 Mrs. Clinton. The billing records do not contain an  
7 entry regarding that.

8 MR. BARTOLOMUCCI: Is it safe to assume  
9 that Mr. Massey wouldn't have said you can call  
10 Hillary Rodham Clinton if she had no knowledge of the  
11 substance of the letter?

12 THE WITNESS: I guess you would have to ask  
13 Mr. Massey that.

14 MR. BARTOLOMUCCI: Is that the reason why  
15 you flagged this letter as perhaps indicating some  
16 knowledge on her part of the direct investment rule,  
17 because of that very inference that I was drawing?

18 THE WITNESS: Yes.

19 BY MR. PORTNOY:

20 Q But to return to the subject of actual  
21 statements on the billing record, the only statement  
22 in the billing record that we can identify that

1 indicates to us or states, establishes that  
2 Mrs. Clinton may have reviewed a document that  
3 discusses the direct investment rule is the June 17  
4 entry on DKS N 028960?

5 A That is an entry -- let me make sure I have  
6 the right one. The review of application amendment  
7 is an entry which appears to bear directly on that.  
8 I believe that the conversations are also -- the  
9 conversations which occurred during the course of  
10 Mr. Massey's research into this issue are also  
11 relevant. They are not directly tied.

12 Q Again, my question was based on the billing  
13 records, the only entry that to your mind establishes  
14 knowledge as opposed to raising questions about  
15 knowledge is this one, the June 17th entry?

16 A I'm not quite comfortable saying it  
17 establishes knowledge. It establishes that the  
18 review was done.

19 Q That brings me to my next question, because  
20 the June 17th letter which I believe you actually  
21 provided to us?

22 A Yes, I did.

1 Q That has 11 entries, does it not, 11  
2 numbered entries?

3 A Yes. It is a page and a half roughly  
4 letter with 11 numbered paragraphs and two unnumbered  
5 paragraphs.

6 Q And the billing entry indicates that  
7 Mrs. Clinton spent .3 hours, or 18 minutes, reviewing  
8 this document?

9 A Yes.

10 Q And it is 11 numbered entries?

11 A That is correct.

12 Q So, if we were to simply assume that she  
13 spent an equal amount of time on each entry, she  
14 spent about a minute and a half total?

15 A The entries are not equal, but your point  
16 is she only spent 18 minutes reviewing it, billed 18  
17 minutes for reviewing it, and that's correct,  
18 certainly. I think also in fairness I need to point  
19 out that I have seen an unsigned version of  
20 Mrs. Clinton's responses to Pillsbury's  
21 interrogatories where she was asked about her  
22 knowledge of the 6 percent investment limitation, and

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1 her response was that although she cannot recall  
2 everything that has ever happened in her career, she  
3 was not a securities lawyer and she does not recall  
4 being aware of this.

5 Q You were also asked about the Rose Law  
6 Firm's involvement in the preferred stock offering  
7 and the broker-dealer application.

8 A Yes.

9 Q When you did your conflicts review, you  
10 were aware, were you not, that the Rose Law Firm had  
11 been involved in representation of Madison Guaranty  
12 with respect to these regulatory matters?

13 A Yes. We were told that it was a brief and  
14 very narrow representation on two narrow regulatory  
15 issues, I believe was the phrase used.

16 Q And you have not concluded either way that  
17 the description provided was somehow inconsistent  
18 with the billing records or consistent?

19 A Again, we provide facts.

20 Q That was my point, that you would have  
21 provided the fact-finder with the information that  
22 the billing records contained, but it is not your



1 role as you see it to conclude whether that  
2 information was consistent or inconsistent with the  
3 representations that were made?

4 A That's correct.

5 Q In light of the fact that you were aware  
6 that the Rose Law Firm was involved in representation  
7 of Madison with respect to the preferred stock  
8 broker-dealer, would it be fair to say that the  
9 billing records add detail and nuance but don't bring  
10 to you an entirely new subject?

11 A They do not bring an entirely new subject.  
12 Certainly when one is analyzing conflicts, as I said  
13 earlier, the precise nature of the work being done is  
14 a highly relevant area.

15 Q You also testified at some length about the  
16 September 24th, 1985 letter agreement between  
17 Mr. Ward and Mr. McDougal.

18 A Yes, both the one that was apparently  
19 executed on September 24th and the one which was  
20 backdated.

21 Q Do you have any information as to who might  
22 have drafted those agreements?

1 A The only information that we have is a  
2 statement from Mr. Hubbell's secretary where she says  
3 that she believes that she may have been the typist  
4 of that agreement.

5 Q Are you aware of any testimony from  
6 Mr. Ward on the subject?

7 A I suspect that you are going to show me  
8 some. I can't recall. Certainly in our interview  
9 with Mr. Ward, he didn't recall much. To the  
10 extent -- I believe he didn't recall who drafted it.  
11 I believe that's what he told us. I can go back and  
12 look at his interview and see if that is the case.

13 Q Did Mr. Ward testify in the case of Ward  
14 versus Madison?

15 A Yes, he did.

16 Q Do you recall whether he was asked about  
17 this subject?

18 A I cannot remember. I have read the  
19 testimony, but I can't remember that. Did he?

20 MR. PORTNOY: Off the record.

21 (Discussion off the record.)

22 BY MR. PORTNOY:



1 Q You have no evidence as to who actually  
2 drafted the letter, do you?

3 A Other than that one statement which -- when  
4 you say "evidence of," obviously evidence that might  
5 suggest something is one thing. Establishment of  
6 proof is something else. We have evidence which  
7 suggests that someone within the Rose Law Firm may  
8 have drafted it, but that is only one piece of  
9 evidence, and we have nothing further.

10 Q In fact, your evidence is that someone  
11 within the Rose Law Firm may have typed it?

12 A That is correct. I stand corrected.

13 Q To clarify again with respect to the Rose  
14 Law Firm's relationship with Mr. Ward, you stated  
15 earlier that you were careful in the way you  
16 characterized the relationship between the Rose Law  
17 Firm and Mr. Ward with respect to the IDC  
18 acquisition.

19 A Yes.

20 Q And you were careful not to suggest, as I  
21 understood your testimony, that the Rose Law Firm  
22 provided legal representation for Mr. Ward?

1 A I believe the way we characterized it is  
2 that they provided representation for Madison/Ward --  
3 just a moment. I'm going to have to look at it.

4 Q I believe it is page I-4.

5 A Madison Guaranty/Madison Financial/Seth  
6 Ward in an acquisition of property. I believe that  
7 is correct as stated. What I believe you were  
8 getting to is whether there was personal  
9 representation. Mr. Ward was also an employee of  
10 Madison Guaranty -- Madison Financial -- Financial or  
11 Guaranty. He was an employee of one or the other.

12 Q So, the Rose Law Firm could have had  
13 extensive dealings with Mr. Ward in his capacity as  
14 an employee of Madison without ever engaging in  
15 representation of Mr. Ward?

16 A Personally, yes, sir.

17 Q To your knowledge, did Mr. Ward ever  
18 receive or pay any legal bills for services provided  
19 during this period from Madison on this matter?

20 A To my knowledge, no.

21 Q Madison Guaranty received legal bills,  
22 however?

1 A Yes, they did.

2 Q Would that tend to suggest to you that  
3 Madison Guaranty was the client?

4 A I don't draw conclusions.

5 MR. GIBSON: Let me take the witness  
6 through a question, if I might.

7 MR. PORTNOY: Please.

8 MR. GIBSON: Did scope of the investigation  
9 conducted by the RTC IG ever include any  
10 investigation into the representation of Ward by the  
11 Rose Law Firm?

12 THE WITNESS: No, it did not.

13 MR. GIBSON: We never investigated whether  
14 the Rose Law Firm represented Seth Ward or anybody  
15 else; we were looking at a different issue?

16 THE WITNESS: That is correct.

17 MR. GIBSON: Thank you.

18 BY MR. PORTNOY:

19 Q You testified earlier that in performing  
20 your conflicts analysis, the nature of the work  
21 performed was of significance to you.

22 A Yes.

1 Q That significance could outweigh any  
2 significance accorded to the amount of work  
3 performed, couldn't it?

4 A It could.

5 Q So, it could in fact make no difference in  
6 a conflicts analysis whether the Rose Law Firm worked  
7 10 hours or 20 hours or 30 hours?

8 A If the law firm was working on a matter in  
9 which there is no potential conflict, it wouldn't  
10 matter if they worked 150 hours.

11 Q You testified earlier that there were some  
12 matters that you believed should have been disclosed  
13 that were not disclosed, and one of those, according  
14 to my recollection, is that the Rose Law Firm  
15 represented Madison Guaranty on two regulatory  
16 issues. That appears not to be consistent with what  
17 you just told me. Could you clarify that for me.

18 A I'm not sure exactly what you are referring  
19 to before there.

20 Q The RTC was aware, was it not, that the  
21 Rose Law Firm represented Madison Guaranty on two  
22 regulatory issues?

1 MR. GIBSON: Could you clarify which  
2 regulatory issues you are referring to? I think we  
3 are all kind of --

4 MR. PORTNOY: Wet/dry.

5 MR. GIBSON: I assume the other one is the  
6 Castle Water and Sewer, sale of water by the public  
7 utility.

8 MR. PORTNOY: That's correct.

9 THE WITNESS: We were certainly aware of  
10 that at the time that we wrote our report. I'm  
11 trying to remember whether April Breslaw said she was  
12 aware of that during the course of their work. I  
13 have to go back and look at the report. I can't  
14 remember what she said.

15 BY MR. PORTNOY:

16 Q You also indicated that the Rose Law Firm  
17 did not disclose that it represented Madison Guaranty  
18 in the IDC acquisition?

19 A That is correct.

20 Q Do you know if they disclosed that to any  
21 federal agency?

22 A No, I don't. The issue that I was looking

1 at was whether they disclosed it to the RTC. That  
2 was where their duty lay, and they did not do so.  
3 When I say RTC, I mean the FDIC's initial work on  
4 behalf of the RTC as well, because for the first few  
5 months that case was run by the FDIC.

6 Q We had a lengthy discussion about a series  
7 of transactions concerning Mr. Ward beginning with  
8 the September 24, 1985 letter and culminating in the  
9 Ward v Madison case, I suppose.

10 A Yes.

11 Q In particular, the May 1, 1986 option.

12 A Yes.

13 Q There is no reason to believe, is there,  
14 that Mrs. Clinton played any role in drafting the  
15 September 4, 1985 letter?

16 A I have no evidence one way or another, no,  
17 sir.

18 Q In fact, your only evidence that the Rose  
19 Law Firm might have played any role is the  
20 secretary's vague recollection that she may have  
21 typed it and her recognition that it might be her  
22 typewriter font?



1       A    And that it appeared to be her style of  
2 typing, yes.

3       Q    You testified that Mr. Ward and Madison and  
4 the person with Mr. Latham then engaged in a number  
5 of transactions to permit Ward to receive the benefit  
6 of his September 24, 1985 agreement?

7       A    To receive his commissions.

8       Q    Do you have any evidence that the Rose Law  
9 Firm had any connection whatsoever to these  
10 transactions prior to the May 1 option agreement?

11      A    No.

12      Q    Do you have any reason to believe that the  
13 Rose Law Firm even knew about any of these  
14 transactions?

15      A    We have no idea what they knew or did not  
16 know. There were conversations that went on again  
17 between Mrs. Clinton and Mr. Ward during this period  
18 of time, but we do not know what the substance of  
19 those conversations was and when asked, Mrs. Clinton  
20 could not recall.

21           MR. GIUFFRA: Off the record.

22           (Discussion off the record.)

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1           BY MR. PORTNOY:

2       Q    So, based on the evidence before you, the  
3 drafting of the option could well have been isolated  
4 from all the transactions prior to it?

5       A    That is possible.

6       Q    And in fact, you have no evidence to  
7 suggest anything other than it was an isolated event?

8       A    We have no evidence one way or the other,  
9 except to the extent that there are phone calls going  
10 on at the same period of time. But we don't know  
11 what occurred in those conversations. All we know is  
12 conversations occurred with the parties.

13      Q    A law firm isn't necessarily disqualified  
14 from representing the RTC simply because it  
15 previously represented an S&L that goes into  
16 receivership or conservatorship, is it?

17      A    No, it is not. It would depend upon the  
18 nature of the representation. It is a disclosable  
19 fact, but it is not an automatic bar.

20           MR. BARTOLOMUCCI: By "disclosable," do you  
21 mean that it must be disclosed?

22           THE WITNESS: Yes, under RTC requirements.



1 BY MR. PORTNOY:

2 Q Is it your view that the Rose Law Firm's  
3 representation of Madison Guaranty prior to the RTC's  
4 stepping in and taking over Madison was adversarial  
5 to the RTC?

6 A Well, the RTC wasn't there, so it wasn't  
7 adversarial to the RTC.

8 Q But is it your view in reverse, that  
9 representation of the RTC after having represented  
10 Madison would be adversarial?

11 A To whom?

12 Q That the two representations would be  
13 adversarial.

14 MR. BARTOLOMUCCI: Can you tell us what you  
15 mean by "adversarial"? Is that separate from in  
16 conflict?

17 MR. PORTNOY: Off the record.

18 (Discussion off the record.)

19 BY MR. PORTNOY:

20 Q Once the RTC took over a failed S&L, it  
21 stood in the shoes of that S&L for all legal  
22 purposes; is that correct?

1 A That is correct. Certain defenses which  
2 are raisable against the institution are not raisable  
3 against the RTC, but yes.

4 Q So if a law firm represented an S&L and the  
5 S&L was then taken over by the RTC, any duty of  
6 loyalty that the firm owed to the S&L would now be  
7 owed to the RTC?

8 A That is correct.

9 Q The acquisition of the IDC property by  
10 Madison has been described by Mr. Giuffra and by  
11 others as a sham transaction.

12 A The examiner so described it, yes, a series  
13 of sham transactions, I believe.

14 Q For the moment, directing your attention  
15 solely to the acquisition from the Industrial  
16 Development Corporation.

17 A I understood the question to be broader  
18 than that.

19 Q To the extent the acquisition from the  
20 Industrial Development Corporation could be  
21 characterized as improper, the impropriety involved  
22 the division of the property between Madison Guaranty

1 and Mr. Ward, did it not?

2 A I don't know that you can sever them  
3 entirely. I think the record is pretty clear that  
4 the parties went into that initial transaction with  
5 every intention of doing the land flips later. That  
6 was the whole purpose in buying the property. I'm  
7 referring to the intention of the parties.

8 Q And you are not suggesting any knowledge on  
9 the part of counsel?

10 A That is correct.

11 Q You have reviewed the closing documents  
12 from that transaction, haven't you?

13 A Some of them.

14 Q They are included in the appendix to your  
15 report?

16 A Yes, some of them anyway.

17 Q Is there any indication that you are aware  
18 of in those closing documents that Mr. Ward was  
19 financing the purchase of the property with a loan  
20 from Madison Guaranty?

21 A I would have to go back and look at the  
22 documents. I don't recall that there is, but I would

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1 go back and look at the documents to ensure that my  
2 recollection is correct.

3 Q Do you recall when the transaction closed?

4 A October 4, 1985.

5 Q Do you recall when Mr. Ward received his  
6 financing from Madison?

7 A Subsequent to that time.

8 MR. GIBSON: Off the record, please.

9 (Discussion off the record.)

10 THE WITNESS: In follow-up to my prior  
11 answer, I cannot recall exactly what we have. I do  
12 strongly recall that what we have appears to be  
13 incomplete. We have what we got from Beech  
14 abstract. The Rose file on the case was lacking.

15 MR. PORTNOY: Ms. Black, that's all I  
16 have. Is there anything you would like to add?

17 THE WITNESS: No.

18 MR. BARTOLOMUCCI: I have some follow-up  
19 questions which won't take very long, if you want to  
20 take a short break before.

21 MR. GIBSON: Let me suggest we go ahead and  
22 keep going. I have a couple questions I would like

1 to ask, too. Why don't you go ahead.

2 EXAMINATION

3 BY MR. BARTOLOMUCCI:

4 Q With regard to the value of the newly found  
5 billing records and what role they may have played in  
6 your investigation, isn't it true that before the  
7 discovery of the billing records, you didn't know  
8 that the Rose Law Firm had drafted the option of  
9 May 1, '86?

10 A That is correct.

11 Q And before the discovery of the billing  
12 records, you didn't know that Hillary Rodham Clinton  
13 had numerous telephone conferences with Seth Ward in  
14 connection with the IDC matter?

15 A That is correct.

16 Q In fact, isn't it true that Seth Ward had  
17 said in his statement that Hillary Rodham Clinton was  
18 not involved in that matter?

19 A That is correct.

20 MR. PORTNOY: Do the telephone conferences  
21 necessarily contradict that?

22 THE WITNESS: Mrs. Clinton billed for

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1 talking to Mr. Ward.

2 BY MR. BARTOLOMUCCI:

3 Q Before the discovery of the billing  
4 records, you didn't know, did you, that Hillary  
5 Rodham Clinton had a telephone conference with Daryl  
6 Dover, who had represented IDC in that transaction?

7 A No. Mr. Dover indicated to us that he had  
8 not dealt with Mrs. Clinton.

9 Q That was a fact that we didn't know before  
10 the discovery of the billing records?

11 A That is correct.

12 Q Before the billing records were discovered,  
13 did you know that on the day before the Rose Law Firm  
14 had sent a letter to Beverly Bassett, the Arkansas  
15 Securities regulator, which later requested approval  
16 of stock offering on the part of Madison --

17 MR. PORTNOY: Chris, Bob went into this on  
18 direct.

19 MR. BARTOLOMUCCI: And you went into it and  
20 I'm refocusing it.

21 BY MR. BARTOLOMUCCI:

22 Q My question is we know about this telephone

1 conference that Mrs. Clinton had with Beverly  
2 Bassett. But isn't it true that before the discovery  
3 of the records, we didn't know that that telephone  
4 conference occurred the day before the Rose Law Firm  
5 sent its letter to Mrs. Bassett?

6 A That is correct.

7 Q Now, in the course of your investigation,  
8 you both reviewed the documentary evidence and  
9 conducted interviews of witnesses; isn't that right?

10 A Correct.

11 Q And among the witnesses that you  
12 interviewed were Rose Law Firm attorneys, both past  
13 and present?

14 A Yes, that's correct.

15 Q How did you decide who to interview?

16 A We interviewed those whose knowledge  
17 appeared to be most relevant to the issues at hand.  
18 We attempted to interview attorneys, several  
19 attorneys who were still with the Rose Law Firm about  
20 the work that they had done for Madison Guaranty in  
21 the past, but Rose denied us access to those,  
22 unless -- Rose denied us access to any attorney who

1 had not represented the RTC.

2 Q So that would mean -- that includes  
3 Mr. Thrash; right?

4 A Yes, sir.

5 Q Who else were you denied access to? That  
6 is, who else -- what Rose attorneys were you denied  
7 access to other than Mr. Thrash?

8 A I believe Gary Speed.

9 MR. GIBSON: Off the record, please.

10 (Discussion off the record.)

11 THE WITNESS: Going back on the record, I  
12 had indicated that we might not have interviewed  
13 Mr. Speed. That is not correct. We did interview  
14 him. Rose did make him available. We did not  
15 interview Mr. Thrash.

16 BY MR. BARTOLOMUCCI:

17 Q It is your testimony with respect to the  
18 IDC/Castle Grande matter, the only Rose attorney as  
19 to which you were denied access was Mr. Thrash?

20 A I believe that is correct. Looking at the  
21 billing records, there might be others that we would  
22 have asked to interview had we known.



1 Q Am I correct that you didn't interview  
2 Hillary Rodham Clinton?

3 A We did not.

4 Q Would you have decided to interview her had  
5 you had the billing records?

6 A I believe we would have.

7 Q Do you have any plans to interview her in  
8 connection with your follow-up work on this matter?

9 A The RTC has submitted interrogatories which  
10 address certainly some of the issues that we would  
11 have been interested in getting answers to. We may  
12 simply accept those. I don't know yet.

13 Q Are those RTC interrogatories focused on  
14 conflicts issues?

15 A I don't know about their focus. They  
16 relate to them.

17 MR. PORTNOY: Are those the RTC  
18 interrogatories propounded by Pillsbury, Madison &  
19 Sutro?

20 THE WITNESS: Yes.

21 BY MR. BARTOLOMUCCI:

22 Q In light of the billing records and what is

1 contained in the billing records, do you think that  
2 your investigation can be complete and thorough  
3 without interviewing Hillary Rodham Clinton?

4 A We have reopened the investigation in a  
5 very narrow sense to look at the impact of these  
6 billing records on what we would have done. I don't  
7 know how productive it would be to go back and try to  
8 redo the investigation.

9 Q Well, my question was do you think your  
10 investigation can be complete and thorough without  
11 interviewing Mrs. Clinton.

12 A What I'm saying is what we would have done  
13 had we known at the time to complete our  
14 investigation and what we are doing in this more  
15 narrow limited review of records which have come to  
16 light since then are not necessarily the same thing.

17 Q So, is it your understanding that you will  
18 not interview Mrs. Clinton, that that is a decision  
19 that has been made, or is that still an open question  
20 at this point?

21 A I think that is an open question.

22 Q I believe you testified that the Pillsbury,

1 Madison report identified three conflicts in  
2 connection with Rose's representation?

3 A Three actual conflicts.

4 Q In connection with Rose's representation of  
5 Madison?

6 A Yes, sir.

7 Q I'm going to read now from Rose's -- that  
8 is from Pillsbury, Madison's report called "Report on  
9 the Rose Law Firm's conduct of accounting malpractice  
10 pertaining to Madison Guaranty." On page 8 of that  
11 it says "the Rose Law Firm had a conflict under the  
12 Arkansas Model Rules of Professional Conduct in  
13 continuing with representation of RTC/FDIC in the  
14 Frost case in light of the facts that A, Seth Ward  
15 was at that time a current client of the Rose Law  
16 Firm, and B, the Rose Law Firm had represented  
17 Madison Guaranty and Ward in the acquisition of the  
18 Castle Grande property from IDC in which questionable  
19 loans had been made to Ward, and C, the Rose Law Firm  
20 had in its employment an attorney, Patricia Heritage,  
21 a former employee of Madison Guaranty who while at  
22 Madison Guaranty may have created minutes of board

1 meetings that never took place and who was a  
2 potential witness in the Frost case."

3 Are those the three actual conflicts you  
4 had in mind?

5 A I believe so.

6 Q Incidentally, that passage I just read says  
7 that the Rose Law Firm had represented Madison  
8 Guaranty and Ward, that is on page 8 of the report,  
9 and on page 5 of the report it says "the Rose Law  
10 Firm through Hubbell and others represented Seth  
11 Ward."

12 So, would you agree with me that at least  
13 in estimation of Pillsbury, Madison, Rose did in fact  
14 represent Seth Ward?

15 MR. PORTNOY: I am going to object to  
16 asking Ms. Black to try and get behind the authors of  
17 the Pillsbury report. The report speaks for itself,  
18 and the word "represented" can have any number of  
19 meetings. As Ms. Black herself has testified, they  
20 were quite careful in their use of language, and they  
21 did not conclude that there was any such  
22 representation.

1 MR. BARTOLOMUCCI: Thank you for that.

2 BY MR. BARTOLOMUCCI:

3 Q Based upon what I have read, would it be  
4 your conclusion that PMS had drawn the conclusion  
5 that Rose in fact had represented Seth Ward?

6 MR. PORTNOY: I would again point out to  
7 the witness --

8 MR. BARTOLOMUCCI: We understand your  
9 objection.

10 MR. PORTNOY: I am not going to --

11 MR. BARTOLOMUCCI: The witness is entitled  
12 to answer it.

13 MR. PORTNOY: She is also entitled to have  
14 the language in front of her.

15 MR. BARTOLOMUCCI: If she would like it, I  
16 will show it to her. "The Rose Law Firm through  
17 Hubbell and others represented Seth Ward."

18 MR. PORTNOY: The witness is perfectly in  
19 her rights to decline to respond to a question about  
20 what someone else meant when they wrote a document.

21 MR. BARTOLOMUCCI: I haven't heard her  
22 decline to answer.

1 BY MR. BARTOLOMUCCI:

2 Q I would refer you to page 5, to the  
3 paragraph numbered 5.

4 (Witness examined the document.)

5 A I guess my answer to that is that you are  
6 probably better asking Pillsbury what they meant by  
7 that.

8 Q As someone who is familiar with the facts  
9 underlying this report, if you were reading page 5,  
10 what conclusion would you draw from it?

11 MR. PORTNOY: This is completely beyond the  
12 scope of Ms. Black's expertise and her role in this  
13 investigation. It is appropriate to ask her what she  
14 meant or what was meant by the RTC Inspector  
15 General's report. It is completely inappropriate to  
16 ask her what Pillsbury, Madison meant by their  
17 report. I believe Ms. Black has already testified  
18 that the person to ask was the person who wrote the  
19 report.

20 MR. BARTOLOMUCCI: I'm asking her not what  
21 Pillsbury, Madison thought but what she understands  
22 this to mean as she reads it.



1 MR. PORTNOY: As an RTC official? As an  
2 individual? Which?

3 MR. BARTOLOMUCCI: As all of that.

4 MR. PORTNOY: Then again I am going to  
5 object that it is beyond the scope of her expertise.

6 BY MR. BARTOLOMUCCI:

7 Q You may answer it.

8 MR. GIBSON: Off the record.

9 (Discussion off the record.)

10 MR. GIBSON: Let's go back on the record.

11 I want the record to reflect that I also object to  
12 the question because I don't think that it is  
13 appropriate for our office to be asked to endorse  
14 what may or may not be a factual statement or  
15 conclusion that Pillsbury is making here. We don't  
16 know what they intended by this language.

17 Now, subject to that objection, you may  
18 answer.

19 MR. PORTNOY: Based on that objection, I am  
20 going to instruct the witness not to answer and  
21 Mr. Bartolomucci may go to the Chairman if he  
22 wishes.

1 MR. BARTOLOMUCCI: I will withdraw the  
2 question.

3 BY MR. BARTOLOMUCCI:

4 Q I'm reading again from the same Pillsbury  
5 report on the Rose Law Firm's conduct of the  
6 accounting malpractice litigation. On page 4, it  
7 says "rather than recite the lengthy facts material  
8 to the conflicts issues, all of which are contained  
9 in the Inspector General's reports, it is sufficient  
10 to refer briefly to the relationships that bear on  
11 the conclusions that follow." And then it has a  
12 series of numbered paragraphs, including the one that  
13 we have just been talking about where it says "the  
14 Rose Law Firm through Hubbell and others represented  
15 Seth Ward."

16 My question to you is that numbered  
17 paragraph, number 5, in which it says that the Rose  
18 Law Firm represented Seth Ward, whatever that  
19 means -- and I'm not asking you to comment on that  
20 now -- that is a conclusion that they drew based upon  
21 the facts set forth in your report; is that correct?

22 MR. PORTNOY: You are asking the witness --



1 MR. BARTOLOMUCCI: Please, Jim.

2 MR. PORTNOY: She has no knowledge of what  
3 they meant or didn't mean other than reading the  
4 report.

5 MR. BARTOLOMUCCI: I didn't ask her what  
6 they meant in section 5, but whether they drew their  
7 conclusions based upon the facts that she developed  
8 in her IG report.

9 MR. PORTNOY: As long as the record is  
10 clear that --

11 MR. BARTOLOMUCCI: The language that begins  
12 on page 4.

13 MR. PORTNOY: As long as the record is  
14 clear that Ms. Black doesn't purport to have any  
15 knowledge what conclusions they did or didn't draw,  
16 then I'm perfectly comfortable with her agreeing that  
17 they said that rather than recite the lengthy facts.

18 THE WITNESS: With that understanding,  
19 Pillsbury says it relies on the facts reported in our  
20 report, yes.

21 BY MR. BARTOLOMUCCI:

22 Q And I believe I'm correct, aren't I, that

1 you testified to this very fact early on --

2 MR. GIBSON: Excuse me. Let's go off the  
3 record a moment.

4 (Discussion off the record.)

5 THE WITNESS: The statement read from  
6 Pillsbury, Madison reports refers to Inspector  
7 Generals' reports, plural. There was an FDIC report  
8 which was also issued. Although I'm now with the  
9 FDIC IG's office, I at that time was with the RTC  
10 IG's office, and my knowledge goes obviously to that  
11 report, not the FDIC.

12 MR. BARTOLOMUCCI: Off the record.

13 (Discussion off the record.)

14 BY MR. BARTOLOMUCCI:

15 Q To go into a new area. In the course of  
16 your investigation, what role, if any, did Vincent  
17 Foster play in the representation of Madison  
18 Guaranty?

19 A I don't recall that he played a role. He  
20 played a role in asking about conflicts within the  
21 firm and general FSLIC-oriented conflicts. I don't  
22 recall a specific role with regard to Madison.

1 Q Based upon your investigation, do you have  
2 any idea why Vincent Foster would have reviewed the  
3 billing records that turned up in the White House  
4 recently?

5 A I have no knowledge about that.

6 Q I believe in answer to a question put to  
7 you by Mr. Gibson, you said it was not part of your  
8 task to analyze whether the Rose Law Firm represented  
9 Seth Ward.

10 A What he asked was whether the scope of our  
11 investigation encompassed any representation that  
12 they may have undertaken with regard to Mr. Ward, and  
13 my answer was no. We were not investigating the Rose  
14 Law Firm's representation of Seth Ward. We looked at  
15 that with regard to how Mr. Hubbell's relationship  
16 with Mr. Ward affected conflicts and with regard to  
17 representations that Mr. Hubbell made as to his  
18 representation of Mr. Ward in certain matters, what  
19 impact that might have had on conflicts. But we did  
20 not have an investigation of everything that the Rose  
21 Law Firm may have done for Seth Ward.

22 MR. GIBSON: Off the record.

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1 (Discussion off the record.)

2 BY MR. BARTOLOMUCCI:

3 Q Did you want to supplement your last  
4 response in any way?

5 A No.

6 Q I'm right, aren't I, that any  
7 representation by Rose of Seth Ward to the extent  
8 there was representation was material to your  
9 investigation, was relevant, even if that wasn't the  
10 specific point of it?

11 A Vis-a-vis Madison, particularly since RTC  
12 was engaged in litigation in opposition to Mr. Ward,  
13 yes.

14 Q Now, in the Frost case, loans made to Seth  
15 Ward were at issue, were they not?

16 A Yes. They were used at least at one point  
17 in the damage calculations.

18 Q Therefore, certainly in the Frost case, it  
19 would be relevant from a conflicts analysis whether  
20 Rose Law Firm had represented Seth Ward since loans  
21 to him were going to be an issue in the case?

22 MR. PORTNOY: As a general proposition or

1 in relation to the loans?

2 THE WITNESS: I was going to draw that  
3 distinction, too. It depends on the type of  
4 representation. Certainly as to those loans and as  
5 to his transactions with Madison, that is definitely  
6 relevant. If they represented him in an automobile  
7 accident case, that wouldn't be relevant.

8 BY MR. BARTOLOMUCCI:

9 Q Can you tell me who represented Madison  
10 Guaranty on -- who in the government represented  
11 Madison Guaranty on appeal in the Ward versus Madison  
12 case after Madison was taken over by the government?

13 A I don't know off the top of my head who the  
14 attorney -- what the name was of the attorney.

15 Q Is that a question that is best put to you  
16 or can you tell me who I should be asking for the  
17 answer to that?

18 A I would ask the FDIC legal division as the  
19 successor in interest to RTC. I don't know. They  
20 should have records indicating that.

21 MR. PORTNOY: Off the record.

22 (Discussion off the record.)

1 MR. BARTOLOMUCCI: That's all I have.

2 MR. PORTNOY: Thank you very much.

3 MR. GIBSON: I have just a couple of brief  
4 questions. After we have been here all evening, I  
5 couldn't resist.

6 EXAMINATION

7 BY MR. GIBSON:

8 Q Ms. Black, I wanted you to clarify for me,  
9 are you aware of what Pillsbury, Madison & Sutro has  
10 been retained to do by first the RTC and now the  
11 FDIC?

12 A I have some general awareness.

13 Q And would you describe that for me,  
14 please.

15 A Pillsbury has been retained to look at  
16 issues surrounding liability, professional liability  
17 of Rose from the Madison Guaranty failure.

18 Q Does Pillsbury's charter run specifically  
19 to determining whether or not the Rose Law Firm had a  
20 conflict of interest in the subsequent representation  
21 of the RTC?

22 A Not to my knowledge.

1 Q So their analysis of this would only run in  
2 the context of an evaluation of potential civil  
3 liability for such a conflict?

4 A I believe that is true.

5 Q With respect to the determination of a  
6 conflict of interest or an analysis of conflict of  
7 interest, where in the FDIC or the RTC would that  
8 determination be made?

9 A There is an outside counsel conflicts  
10 committee that has that responsibility, and of course  
11 the general counsel himself.

12 Q Did the RTC in issuing its final report on  
13 the Rose Law Firm make any recommendation to Mr. Ryan  
14 with respect to the conflicts issues, the technical  
15 conflicts issues? Let me rephrase that question.

16 Did they recommend that Mr. Ryan take any  
17 specific action in order to ascertain whether a  
18 conflict of interest in fact existed or whether RTC  
19 had acted appropriately? Did they suggest a  
20 referral, for example?

21 A They did suggest a referral of these  
22 matters to the Arkansas Supreme Court, I believe,

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1 which is the arbiter of such issues in Arkansas.

2 Q Was such a referral made?

3 A Yes.

4 Q Have the results of such a referral to your  
5 knowledge come back?

6 A No.

7 MR. GIBSON: I have no further questions.  
8 Thank you.

9 (Whereupon, at 6:35 p.m., the deposition  
10 was concluded.)  
11

12 -----  
13 PATRICIA M. BLACK  
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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey  
Notary Public in and for the  
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

1968

DEPONENT Patricia M. Black (2-5-96)

## ERRATA

[illegible]

January 30, 1986  
Rose Bill to Madison Guaranty S&L  
Matter: JDC

1969

	Standard Value	Difference	January Amount to Bill	September (\$639) and October (\$550) Bills	Actual Amount Billed
Hillary Clinton	\$912.50 7.3 hours	\$1818.75 14.55 hours	\$2731.25 21.85 hours		
Richard Donovan	\$468.75 6.25 hours	-0-	\$468.75 6.25 hours		
Davis Thomas	\$262.50 3.5 hours	-0-	\$262.50 3.5 hours		
TOTAL	\$1643.75	\$1818.75	\$3462.50	\$1189.00	\$4651.50



1970

HILLARY CLINTON'S IDC BILLINGS

DATE	TIME BILLED	AMOUNT	ACCOUNT BILLED
11/14/85	.5 hours	\$ 62.50	GENERAL
11/20/85	1.0 hours	\$ 125.00	GENERAL
11/26/85	1.0 hours	\$ 125.00	STOCK OFFERING
12/4/85	.5 hours	\$ 62.50	IDC
12/6/85	.3 hours	\$ 37.50	IDC
12/10/85	.5 hours	\$ 62.50	IDC
12/11/85	.5 hours	\$ 62.50	IDC
12/19/85	.5 hours	\$ 62.50	IDC
12/20/85	1.0 hours	\$ 125.00	IDC
12/23/85	1.0 hours	\$ 125.00	IDC
12/24/85	1.0 hours	\$ 125.00	IDC
12/26/85	.5 hours	\$ 62.50	LTD PARTNERSHIP
1/7/86	1.0 hours	\$ 125.00	IDC
1/14/86	1.0 hours	\$ 125.00	IDC
2/17/86	.5 hours	\$ 62.50	IDC
2/28/85	.8 hours	\$ 100.00	IDC
3/3/86	.5 hours	\$ 62.50	IDC
3/10/86	.3 hours	\$ 37.50	IDC
4/7/86	.2 hours	\$ 70.00	IDC
5/1/86	2.0 hours	\$ 280.00	GENERAL
6/10/86	.4 hours	\$ 56.00	GENERAL
<b>SUBTOTAL</b>	<b>15.0 HOURS</b>	<b>\$ 1,956.00</b>	
<b>UNKNOWN</b>	<b>14.5 HOURS</b>	<b>\$ 1,818.75</b>	<b>Reflected in 1/86 Billing</b>
<b>TOTAL</b>	<b>29.5 HOURS</b>	<b>\$ 3,774.75</b>	





1971

8/20/85 MF corp res for Ward to act in purchase of IDC

9/3/85 McD/Ward agrmt: Ward pur N of 145th for \$1.15; M 270 day optn for \$1.187

9/13/85 IDC-MFC Purchase Agrmt. MFC Assignment to Ward

9/24/85 Ward/MF Agrmt.: W pur non-recourse all N of 145, water & sewer; 270 day option for amt of note + int; 10/4% commission

\* Backdated Agrmt excepts 22.5 acre Holman acres; \$35K optn. payment

10/4/85 IDC closes.

2/25/86 W \$70K unsecured note to MG, ammt left on IDC

2/28/86 Castle Water & Sewer closes: all IDC gone except Holman acres; \$1.15 W note paid

3/31/86 MG gives W \$400K: secured by Holman acres; personal recourse

4/7/86 MF note to Ward, \$300K

5/1/86 90 day Option Ward to MFC; \$400K price; \$1K paymt

6/6/86 Ward released from per lia on \$400 and \$70K notes

12/12/86 Wards quitclaim Holman acres to Madison

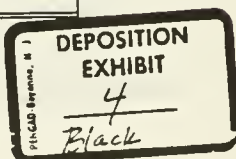
9/2/87 Ward v. Madison compl. filed

8/30/88 2 day trial begins, judgement of ~\$350K in favor of Ward

9/30/93 Ward/RTC settle: Ward pays \$325K and gets full release



DATE	ROSE LAW FIRM - ATTORNEY CONFERENCE BILLINGS	HOURS BILLED
<i>Stock Offering</i>		
4/23/85	H. CLINTON - Conf. R. Massey; Conf. W. Gregory; Conf J. McDougal; Conf. J. Latham. R. MASSEY - Conf. H. Clinton Conf. J. Latham; Conf. L. Baledge; Research. W. GREGORY - 0. L. BALEDGE - Conf. R. Massey	HRC-2.0 RM-2.50 WG-0.0 LB-1.10
4/24/85	H. CLINTON - Confs. Massey; Conf. D. Fitzhugh; Review drafts. R. MASSEY - NO Conf. w/ H. Clinton	HRC-1.5 RM-0.0
4/26/85	H. CLINTON - Conf. R. Massey; Conf. Davis Fitzhugh; Conf. J. Latham. R. MASSEY - NO Conf. w/ H. Clinton	HRC-2.00
4/29/85	H. CLINTON - Conf. Massey Conf. Bassett R. MASSEY - NO Conf. w/ H. Clinton	HRC-1.00
6/4/85	H. CLINTON - Conf. Massey R. MASSEY - NO Conf. w/ H. Clinton	HRC-.20
6/5/85 Clinton	H. CLINTON - Conf. C. Giroir & C. GIROIR - NO Conf. w/ H. CLINTON	HRC-.20



DATE	ROSE LAW FIRM - ATTORNEY CONFERENCE BILLINGS	HOURS BILLED
6/7/85 Clinton	H. CLINTON - T/Conf. Massey R. MASSEY - NO T/Conf w/ H. Clinton	HRC-.50
11/26/85 Clinton	H. CLINTON - Conf. W. Hubbell T. THRASH Conf. S. Ward W. HUBBELL - NO Conf. w/ H. Clinton	HRC-1.0
<b>Limited Partnership</b>		
5/08/85	H. CLINTON - T/Conf. Massey R. MASSEY - NO T/Conf w/ H. Clinton	HRC-.50
7/18/85	H. CLINTON - 2 Confs. R. Massey; 2 Confs. S. McDougal; Review memo. R. MASSEY - NO Confs. w/ H. Clinton	HRC-1.00
7/25/85	H. CLINTON - Conf. Massey MASSEY - NO Confs. w/ H. Clinton	HRC-0.50
<b>General Madison</b>		
9/5/85	H. CLINTON - Conf. R. Massey R. MASSEY - NO Confs w/ H. Clinton	HRC-.30
9/20/85	H. CLINTON - Conf. R. Massey & J. Latham; Conf. R. Massey and D. Knight R. MASSEY - NO Confs. w/ H. Clinton	HRC-1.00
11/20/85	H. CLINTON - Conf. W. Hubbell Conf. S. Ward W. HUBBELL - NO Confs. W. H. Clinton	HRC-1.00

DATE	ROSE LAW FIRM - ATTORNEY CONFERENCE BILLINGS	HOURS BILLED
12/20/85	H. CLINTON - Conf. Massey MASSEY - NO Conf. w/ H. Clinton	HRC-1.00
6/10/86	H. CLINTON - T/Conf. R. Massey Conf. S. Ward. MASSEY - NO Conf. w/ H. Clinton	HRC-.40
<b>5 I.D.C.</b>		
12/4/85	H. CLINTON - Conf. R. Massey. R. MASSEY - NO Conf. w/H Clinton	HRC-.50
1/7/86	H. CLINTON - Conf. K. Shemin; Conf. S. Ward. K. SHEMIN - NO Conf. w/ H. Clinton	HRC-1.00
1/14/86	H. CLINTON - Conf. J. Birch; Conf. K. Shemin; Conf. R. Donovan. J. BIRCH - NO Conf. w/ H. Clinton K. SHEMIN - NO Conf. w/ H. Clinton R. DONOVAN - Meeting H. Clinton	HRC-1.00
<b>Babcock</b>		
5/1/86	H. CLINTON - Conf. H. Rule Conf. R. Cobb T/Confs. D. Denton H. RULE - NO Confs. w/ H. Clinton	HRC-1.00



DATE	ROSE LAW FIRM - ATTORNEY CONFERENCE BILLINGS	HOURS BILLED
5/2/86	H. CLINTON - Confs. K. Burns T/Conf. H. Rule K. BURNS - NO Conf. w/ H. Clinton H. RULE - NO Conf. w/ H. Clinton	HRC-1.00
5/13/86	H. CLINTON - T/Confs. H. Rule H. RULE - NO T/Confs. w/ H. Clinton.	HRC-.50



**DEPOSITION OF S. WOOTEN EPES  
IN RE: S. RES. 120**

---

**MONDAY, FEBRUARY 5, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of S. WOOTEN EPES, called for examination pursuant to notice of deposition, at 10:15 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.  
Majority Associate Special Counsel  
MITCHELL FEUER, Esq.  
Minority Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

ALAN STRASSER, Esq.  
Kutak Rock  
1101 Connecticut Avenue, NW  
Washington, DC 20036-4374  
On behalf of the Deponent.

## CONTENTS

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**WITNESS****EXAMINATION****S. Wooten Epes**

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## 1 PROCEEDINGS

2 Whereupon,

3 S. WOOTEN EPES

4 was called as a witness and, having first been duly  
5 sworn, was examined and testified as follows:

## 6 EXAMINATION

7 BY MR. O'CALLAGHAN:

8 Q Good morning. My name is Michael  
9 O'Callaghan. I am an associate special counsel for  
10 the Majority in the special committee, and to my left  
11 is Mitchell Feuer, who is a counsel for the  
12 Minority.13 This deposition is being conducted pursuant  
14 to Senate Resolution 120. The resolution establishes  
15 a special committee administered by the Banking  
16 Committee to conduct an investigation involving  
17 Whitewater Development Corporation Madison Guaranty  
18 Savings & Loan Association, Capital Management  
19 Services, Incorporated, the Arkansas Development  
20 Finance Authority, and related matters. And those  
21 are the issues that are contained in -- that will be  
22 the focus of today's deposition.1 This deposition is in advance of public  
2 hearings which may occur in February or March,  
3 depending on the status of the Committee. It is  
4 likely you will be asked to testify at those  
5 hearings. We will ask you a series of questions  
6 today. You have already been sworn in. You will be  
7 testifying under oath.8 If you don't understand a question, let  
9 either me or Mr. Feuer know and we will rephrase the  
10 question we have asked. If you need a break, also  
11 let us know and we will be happy to accommodate you.12 The stenographer is preparing a record of  
13 questions and answers. The deposition will be  
14 treated as Committee Confidential until the  
15 commencement of the hearings, public hearings. Prior  
16 to the hearings, you will receive a letter from the  
17 Committee informing you that you may come to the  
18 Senate to review the transcript of your deposition  
19 and make notes of corrections for transcription on an  
20 errata sheet.21 I think what we have been doing with people  
22 living outside of Washington, we have been sending

1 people copies to make corrections on. If you are  
2 called to testify at a public hearing, you will be  
3 permitted to have a copy of your deposition  
4 transcript as well. Generally, we have been doing it  
5 four days before the hearings.

6 You may be represented by counsel. Are you  
7 represented by counsel today?

8 A I am.

9 MR. O'CALLAGHAN: Could Counsel please  
10 state your name and the name of your firm.

11 MR. STRASSER: I am Alan Strasser. I am  
12 with the firm of Kutack Rock.

13 BY MR. O'CALLAGHAN:

14 Q Objections to the form of questions will be  
15 noted for the record. Counsel may object on grounds  
16 of privilege or relevance. And the Committee  
17 Chairman may rule on objections where the witness  
18 refuses to answer a question.

19 Could you please state and spell your full  
20 name for the record.

21 A Yes, Wooten -- actually my first name  
22 S-h-a-d-e, middle name W-o-o-t-e-n; Epes, E-p-e-s.

1 Q Are you aware of the document request made  
2 by the Committee with respect to the activity of the  
3 Arkansas Housing Development Agency, or Arkansas  
4 Development Finance Authority?

5 A Document requests, no.

6 Q Have you spoken to anyone other than your  
7 counsel about your testimony in this deposition?

8 A No.

9 Q Did you take any steps to prepare for this  
10 deposition?

11 MR. STRASSER: Other than talking to  
12 counsel?

13 MR. O'CALLAGHAN: Other than talking to  
14 counsel, yes.

15 THE WITNESS: No.

16 BY MR. O'CALLAGHAN:

17 Q Did you consult any documents or --

18 A No.

19

20

21 Q And your present business address?

22 A 124 West Capitol Avenue, Suite 1770, Little

1 Rock, Arkansas 72201.

2 Q And where are you currently employed?

3 A I am with the law firm of Kutack Rock.

4 Q What's your position there?

5 A I am a partner.

6 Q How long have you been with the firm?

7 A Since January 1989.

8 Q Could you give me a brief description of  
9 your employment history since you were graduated from  
10 law school?

11 A I began my legal practice in June of '72,  
12 in the town of Helena, Arkansas. Stayed with that  
13 firm for 8 years. It was -- I later became a partner  
14 and it was Roscoff & Epes, and left Helena, Arkansas  
15 in 1980. Was employed at the University of Arkansas  
16 at Little Rock from May of 1980 until September of  
17 1983. At that time, I became the director of --  
18 executive director, I guess it was, of the Arkansas  
19 Housing Development Agency.

20 During my tenure there, the agency's  
21 legislative scope was expanded and renamed to become  
22 the Arkansas Development Finance Authority and my

---

1 title was changed to president. And I served in that  
2 capacity until January of 1989 when I joined the  
3 Kutack Rock law firm.

4 Q When you became director of the Arkansas  
5 Housing Development Agency, was it in May of 1983?

6 A September '83.

7 Q September '83.

8 How did you come to get that position?

9 A I applied to the -- I guess it was the  
10 board of directors. I was interviewed by a committee  
11 of the board of directors of the Housing Development  
12 Agency and was selected among several applicants at  
13 that time.

14 The status of the job is that the selection  
15 of the director was by the board, but once selected,  
16 then I served at the will of the governor.

17 Q Did the governor or the governor's office  
18 have any input into the selection process?

19 MR. STRASSER: You are asking if he knows?

20 MR. O'CALLAGHAN: His personal knowledge.

21 MR. STRASSER: His personal knowledge?

22 MR. O'CALLAGHAN: Sure.



1 THE WITNESS: I am not sure what input they  
2 had.

3 BY MR. O'CALLAGHAN:

4 Q Have you ever heard that they had any  
5 input?

6 A I don't remember.

7 Q Who was on the hiring committee that you  
8 interviewed with?

9 A I don't remember all of them. I recall one  
10 of them was a lady who is now, Margaret Eldridge is  
11 her name now. At that point her name was Margaret  
12 Davenport.

13 I believe it was a three-member committee,  
14 and I just can't recall. I think I remember one  
15 other one, but I hate to say it because I am not sure  
16 it is right.

17 Q How did you -- to the best of your memory,  
18 how did you come to interview for the job?

19 A I heard it was available from a friend who  
20 used to work at the agency.

21 Q Who was that?

22 A Jerry Webster.

---

10

1 Q Was he an employee of the agency?

2 A Not at the time. He was a former  
3 employee.

4 Q What was his position at the agency?

5 A He was not director, but I don't recall  
6 what his title was.

7 Q What area of law did you practice before  
8 you became the director of AHDA?

9 A Before I became director, I was not  
10 practicing law. When I was in law practice, I had a  
11 general practice. A lot of the practice was real  
12 estate, commercial law.

13 Q What was your position at the University of  
14 Arkansas, Little Rock?

15 A I was director of the local government  
16 institute.

17 Q What did that involve?

18 A It was a public policy research office, and  
19 it had a small staff. And we conducted studies in  
20 state and local government issues, generally  
21 revolving around taxation and intergovernmental  
22 funding problems.



1 Q Did you have any contact with anyone at the  
2 governor's office before being hired at AHDA?

3 A Yes.

4 Q Who did you have contact with?

5 A Bob Nash.

6 Q What was the nature of that contact?

7 A The nature?

8 Q What did you talk about?

9 A The nature was to let him know that I had  
10 an interest in the job.

11 Q Why did you contact Bob Nash?

12 A I don't recall.

13 Q What was his position at the time?

14 A He was on the governor's staff; I don't  
15 remember the title.

16 Q That was in September of 1983 or before  
17 that, to the best you can recall?

18 A It was before, yes. I started the job in  
19 September. I was actually interviewed probably a few  
20 weeks before that, maybe two or three, so --

21 Q Do you recall what the purpose of the  
22 conversation with Mr. Nash was; anything beyond

1 that? Did you have any interest as to how the agency  
2 worked, or do you know why you got in touch with him?

3 A I don't recall. I had known Bob Nash  
4 through my work at the university. In his former  
5 employment, he was with the Rockefeller Foundation  
6 and they provided some funding for the local  
7 government institute. So that's probably why I  
8 contacted him instead of someone else. But other  
9 than that, I don't remember.

10 Q Was it your idea to contact him or did  
11 someone suggest you contact him?

12 A It was -- I don't remember. It's, you  
13 know, ancient history.

14 Q Did Mr. Nash tell you whether or not he had  
15 any ability to affect your chances of getting the  
16 position?

17 A I don't recall that he did.

18 Q I realize it was a while ago, but I am  
19 trying to get a feeling for whether this was an  
20 information-gathering session or whether it was a  
21 meeting set up to help you get the position.

22 A I just don't recall. I mean, it was -- it

1 was an appointed position. And I've told you all I  
2 remember.

3 Q Do you remember how long the conversation  
4 was, the meeting?

5 A No.

6 Q Was it face to face?

7 A I don't remember.

8 Q You don't remember if it was on the phone,  
9 or if you met with him in his office?

10 A No.

11 Q Do you recall whether in '83 you went over  
12 to the governor's office at any time before  
13 September, before you started?

14 A No, I don't remember. That's a year of a  
15 legislative session which would have been early in  
16 '83 and I would have -- I was somehow involved in  
17 the session during that period, so I very easily  
18 could have been upstairs in the governor's office  
19 visiting friends. I had a number of acquaintances  
20 that worked on the governor's staff.

21 Q Who did you know that was on the governor's  
22 staff?

1 A I don't remember all the names. If you  
2 gave me a list I could probably tell you half of them  
3 that I knew, but right now, there are people that  
4 came and went on the governor's staff over their  
5 tenure. And if I told you who I knew at that point  
6 in time, it might be two years later they were  
7 there. I don't know.

8 Q Do you recall with any certainty the people  
9 you knew around the time period of September of 1983  
10 who was working there? You met with Mr. Nash. Did  
11 you meet with anybody else?

12 A I don't recall meeting with anyone else,  
13 you know, on any particular business. As I said, I  
14 had acquaintances that worked there and I would  
15 occasionally step in and say hi to them, but that's  
16 all I remember.

17 Q Do you remember who you knew in September  
18 of 1983, in that time period who you knew well that  
19 was working in the governor's office? It was early  
20 on in that administration, I believe.

21 A Oh, I think Sam Bratton was there. He was  
22 in my class at law school, and I think he worked on

1 the governor's staff for the duration, so I think he  
2 would have probably been there.

3 As I said, there were a number of people  
4 who had come and gone. And I was around for a number  
5 of years. And it is hard to recall who was there in  
6 September of '83, other -- I know Sam was there for a  
7 long period of time. That's all I can say for sure  
8 that would have been there.

9 Q Did you know Betsey Wright?

10 A Yes, but I didn't know her well, if that  
11 was your question.

12 Q Let me take a step back.

13 You knew Sam Bratton, you went to law  
14 school with him?

15 A Yes.

16 Q Did you have -- was he a good friend? What  
17 kind of contact did you have with Mr. Bratton?

18 A Just -- he was not a good friend, but I --  
19 I mean, since 1969 or '7 --

20 Q Did you have any contact with him in  
21 relation to your position with the university?

22 A I don't believe I did. Not that I recall.

1 Q Did you discuss your interests in the ADHA  
2 position with him?

3 A Not that I recall. It has just been too  
4 long.

5 Q You said you know Betsey Wright, but you  
6 don't know her well. How do you know her?

7 A She was chief of staff for the governor.

8 Q Did you know her in September of 1983?

9 A Yes.

10 Q How did you first meet her? How did you  
11 know her?

12 A I am trying to recall when I first met  
13 her. I met her sometime in 1982. She was campaign  
14 director, as I recall, for the '82 campaign, and I  
15 was between -- between the election in November of  
16 1982 and the inauguration in January of '83, the  
17 university assigned me to work on the transition --  
18 the governor's transition efforts from November till  
19 January. And that's when I would have become  
20 acquainted with her. I don't recall if I had met her  
21 before that or not. If I had, it was very casual.

22 Q Did you work on the campaign at all?



1       A    I did some. I don't remember what I did,  
2 but I know I did some volunteer work because I was in  
3 and out of the headquarters a few times, and one of  
4 my daughters worked down there. She was a 6th, 7th  
5 grader I believe, and helped address envelopes, I  
6 believe.

7       Q    What you did at the campaign, was that on a  
8 part-time basis?

9       A    Definitely. All volunteer. I didn't take  
10 time off from my job to do it. It was strictly after  
11 hours. Occasional.

12      Q    What type of work did you do for the  
13 transition?

14      A    I don't recall specific -- I didn't have a  
15 particular title. My recollection is that I gathered  
16 information about issue areas, generally areas that I  
17 worked on when I was at the university, involving  
18 taxation and revenues and things like that. I  
19 occasionally sat in meetings with other people that  
20 would come in and offer their views about what needed  
21 to be done in state government.

22      Q    And you were assigned to do that by the

---

1 university?

2       A    Right. They loaned me to the transition  
3 effort. In other words, that was my job. I was  
4 being paid by the university while I was doing that.

5       Q    Did you do any work on issues related to  
6 the Housing Development Agency?

7       A    I don't remember if I did or not. It's  
8 been too long. I can't say.

9       Q    We were talking earlier about who you knew  
10 in the governor's office around September of 1983.  
11 Did you know Maurice Smith?

12      A    Yes.

13      Q    How do you know Maurice Smith?

14      A    He is a friend of a friend. One of the  
15 people that worked under him at some point during the  
16 Clinton Administration is a real good friend of mine,  
17 and she worked for Maurice. And so I became  
18 acquainted with him through that friendship. I just  
19 know him casually, I don't know him that well.

20      Q    Did you know him at the time you applied  
21 for the AHDA job?

22      A    I don't recall.



1 Q Do you recall when you first met him?

2 A No. I probably met him before that, but I  
3 don't -- I probably would have met him during that  
4 time I was working on the transition, but that's just  
5 a guess. I don't know.

6 Q This friend of yours that knew Maurice  
7 Smith, what was the friend's name?

8 A B.A. Rudolph, R-u-d-o-l-p-h.

9 Q And was B.A. Rudolph working at the  
10 governor's office at the time you applied for the  
11 position?

12 A I don't remember whether she was there or  
13 not. She moved at some time around that time, and I  
14 don't remember.

15 Q Other than the people that I mentioned, is  
16 there anyone you recall that you knew at the office,  
17 the governor's office, at the time you applied for  
18 the AHDA job?

19 A I don't recall.

20 Q With regard to your position as director of  
21 AHDA, would you describe what your -- give me an  
22 overview of what your responsibilities were in that

1 position.

2 A Well, I ran the agency; hired, fired, and  
3 carried out its mission.

4 Q How many people did you supervise?

5 A At the beginning it was in the low 20s. I  
6 think by the time I left it was close to 40.

7 Q And had you had any experience with bond  
8 underwritings or issuances before you became director  
9 of the agency?

10 A No, no direct experience. I had done -- I  
11 had attended a seminar while I was at the university,  
12 in New York, the seminar was in New York. And I had  
13 begun doing a little bit of research in the area of  
14 infrastructure finance. That was kind of the  
15 beginning of a body of research and kind of a thrust  
16 by a fellow who is still floating around nowadays.

17 Pat Choate wrote a book about it and the  
18 basic thrust was our infrastructure was crumbling and  
19 somehow we were going to have to rebuild it. How do  
20 you do that? Well, normally you borrow money. So I  
21 was beginning to learn about the state's options in  
22 anticipation of what we could do to begin that

1 process. And of course borrowing, using bond finance  
2 is one way of doing that.

3 MR. FEUER: Pat Choate has floated in front  
4 of the Senate Banking Committee from time to time.

5 THE WITNESS: He is kind of a gadfly.

6 BY MR. O'CALLAGHAN:

7 Q Would you say your role was more as an  
8 administrator -- first let me ask that question.

9 A More of an administrator than what?

10 Q Than -- okay, let me finish it.

11 A Okay.

12 Q Than a -- did you review proposals by  
13 different underwriting firms to do bond underwritings  
14 for the agency? Would you flesh out more what your  
15 role was and responsibilities with respect to that?

16 A Well, it -- I was there five years, so I  
17 did a little bit of everything over the course of  
18 it. Yes, I did that.

19 The agency employed underwriters and  
20 lawyers, who were the technicians that structured and  
21 completed the bond financing. The agency itself had  
22 staff which then took those bond proceeds and used

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1 them for the purpose for which they were intended, or  
2 at least were the administrators of those funds,  
3 which were then, in the case of single family  
4 housing, were then passed around the state through  
5 various lenders who wanted to loan those funds to  
6 qualified buyers.

7 Q Did you have a role in determining how  
8 those proceeds were doled out?

9 A A minor role. Our -- there weren't --  
10 generally our problem was, was finding enough lenders  
11 to cover the entire state such that the funds were  
12 accessed in a fairly uniform fashion. Particularly  
13 in the early days there, we had trouble getting  
14 lenders educated because the program, being a bond  
15 finance program, it had more documentation required  
16 for our home loan than a savings and loan normally  
17 required.

18 And so we had to train lenders how to  
19 participate in the program, and we had to encourage  
20 them to participate in the program. And so our role  
21 was fairly multifaceted in that regard. But it  
22 wasn't like we had too many people -- too many

1 lenders coming to us for funds. We were generally  
2 going out, trying to find them.

3 But we had rules and most of the rules were  
4 prescribed by Congress when they set the program up.  
5 And that was why we had to do the educational effort  
6 because it was different than a typical home loan.

7 Q And initially the agency was limited to  
8 providing funds for housing; isn't that correct?

9 A Yes, single family housing and multifamily  
10 housing. It's generally -- the single family part of  
11 it is generally referred to as mortgage revenue bond  
12 program. And the program has with it certain income  
13 restrictions and certain home -- price of home  
14 restrictions. And you start -- you start trying to  
15 get lower income people into homes. Then you also  
16 have your typical credit requirements and that's  
17 usually the tension involved in trying to get this  
18 money used.

19 Q Before you began work for the Housing  
20 Development Agency, did you have any meetings with  
21 the governor, any discussions, contacts?

22 A I don't recall that I did, but I might

1 have. I just don't recall.

2 Q Did you know him before you started your  
3 position?

4 A Yes.

5 Q How did you know him?

6 A A friend introduced me to him in 1975.

7 Q And what was the context of that meeting?

8 A I don't remember. At that time I was in  
9 Helena, practicing law.

10 Q And between 1975 and 1983, when you started  
11 at AHDA, did you have any contacts with the  
12 governor?

13 MR. STRASSER: Could you explain the  
14 relevance of this to your inquiry?

15 MR. O'CALLAGHAN: Trying to establish the  
16 relationship between different people in the agency  
17 and the governor's office, and in turn, look at the  
18 relationships of the people involved in the  
19 underwritings.

20 MR. STRASSER: Would you tell me that  
21 again? The relationships between --

22 MR. O'CALLAGHAN: Can you read that back.



1 (The reporter read the record as requested.)

2 MR. O'CALLAGHAN: If you look at Section  
3 1(b)(3), authorization to -- "investigation of public  
4 hearings into and study of all matters that have any  
5 tendency to reveal the full facts about bond  
6 underwriting contracts between Arkansas Development  
7 Financial Authority and Lasater & Company." So  
8 that's the relevance.

9 MR. STRASSER: I don't see how any meetings  
10 that he had before he was in the agency have anything  
11 do with that.

12 MR. O'CALLAGHAN: Just trying to establish  
13 the relationship with the governor and how that  
14 might --

15 MR. STRASSER: Between him and the  
16 governor? He wasn't in the agency before 1983.

17 MR. O'CALLAGHAN: It may bear on his  
18 actions while in the agency with regard to his  
19 relationship with --

20 MR. STRASSER: Why don't you try to elicit  
21 some facts before that, before you review eight years  
22 of whether he had any kind of meetings, at any kind

1 of social events or any other circumstance, with the  
2 governor before we go off on this wild goose chase?

3 MR. O'CALLAGHAN: With all due respect, I  
4 don't believe it is a wild goose chase. And if we  
5 can do it without spending unnecessary time on  
6 irrelevant meetings, I will endeavor to do that.

7 MR. STRASSER: The question you just asked  
8 him concerned all the contacts he had with Bill  
9 Clinton for eight years. And if that isn't a wild  
10 goose chase, maybe I don't know one when I see one.

11 Now, my thought here is why don't you ask a  
12 question or two about this, and we will see how far  
13 afield you get. But if you do, I will direct him not  
14 to answer.

15 MR. O'CALLAGHAN: That's fine. If I want  
16 the witness to answer, we will go to the Chairman, if  
17 that's okay.

18 MR. STRASSER: Okay.

19 BY MR. O'CALLAGHAN:

20 Q A way which may expedite this -- and I am  
21 not trying to go on a goose chase of any nature -- if  
22 you can describe the nature of your relationship with



1 the governor over the time period '75 to '83, whether  
2 you were good friends, saw each other frequently,  
3 infrequently?

4 A I was an acquaintance. I saw him  
5 infrequently.

6 Q Infrequently. Would you characterize that  
7 as one or two times a year, once a month, once a  
8 week?

9 A Less frequently than once a month, probably  
10 two or three times a year. I don't remember. It's  
11 been too many years.

12 Q When you had the occasional contact with  
13 the governor, was it normally in relationship to your  
14 legal practice, your position at the university,  
15 social contacts?

16 A It would have been social.

17 Q And who is the friend that introduced you  
18 to the governor in 1975?

19 A Brady Anderson.

20 Q Who is Brady Anderson?

21 A He is the ambassador to Tanzania.

22 Q Did he work in the governor's office at any

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1 time?

2 A He did.

3 Q What was his position there?

4 A I don't remember. I mean, he was on the  
5 staff is all I recall, but positions were fairly  
6 nondescript.

7 Q Nothing specific you can recall?

8 A No.

9 Q Do you recall when he was employed in the  
10 governor's office?

11 A He was there between '78 -- not '78, it was  
12 end between January of '79, and November of '80.

13 Q Did he work in any other gubernatorial  
14 administrations other than the one you identified?

15 A No.

16 Q I believe you testified earlier there came  
17 a time when the Housing Development Agency's  
18 authority was expanded; is that correct?

19 A Right.

20 Q Could you explain when that occurred and  
21 what the substance of the changes were?

22 A Right. It occurred in the 1985 legislative

1 session. And our sessions begin in January and  
2 generally go 90 to 120 days into the year. So it was  
3 at some point during that session the name was  
4 changed to the Arkansas Housing Development  
5 Authority. And along with the name change was an  
6 expansion of our powers to issue tax exempt revenue  
7 bonds as well as taxable bonds, in many different  
8 areas, including health care, agricultural, business,  
9 industrial development, public facilities for  
10 government. And I think that pretty well covers it.

11 We tried basically to create a multipurpose  
12 revenue bond issuing authority to be a centralized  
13 revenue issuer for state government. The housing  
14 agency had done it in the past for a number of years  
15 and there weren't very many other agencies throughout  
16 state government that issued bond on a regular  
17 basis. So the thought was to put that type of  
18 expertise in one place to fulfill that function for  
19 multipurposes.

20 MR. FEUER: For the sake of clarity,  
21 Mr. Epes, to what was the name changed in 1985?

22 THE WITNESS: Arkansas Development Finance

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1 Authority; we called it ADFA.

2 MR. STRASSER: You said the opposite  
3 before.

4 THE WITNESS: Oh, did I? I'm sorry.  
5 That's a first.

6 BY MR. O'CALLAGHAN:

7 Q So generally this was done to centralize  
8 all the state bond financing through one agency; is  
9 that correct?

10 A All revenue bonds. There are also general  
11 obligation bonds that are issued from time to time,  
12 yes.

13 Q Who were those issued by? And I will give  
14 you a time period, '83 through '86.

15 A Well, there aren't that many GO bonds out.  
16 Generally I believe they are issued, the balance of  
17 them, I believe, are all issued from -- through the  
18 Arkansas Soil Conservation Commission or something  
19 like that, I believe. That's their title for water  
20 projects. And I believe they have also issued some  
21 bonds for waste water projects, sewer projects.

22 And the best I can recall, those are the

1 only general obligation bonds that were issued during  
2 that time.

3 Q And were there any revenue bonds issued by  
4 any other agencies during that time period?

5 A Yes.

6 The University of Arkansas Board of  
7 Trustees, I know issued some. The Department of  
8 Education issued some bonds that were for local  
9 school districts. I wasn't sure whether those were  
10 actually revenue bonds or what they were, but they  
11 were some other kinds of bonds that I never could  
12 figure out what they were.

13 That's all I seem to recall. There might  
14 have been some other state universities besides the  
15 University of Arkansas that issued -- there was the  
16 Student Loan Authority that issued bonds separately.  
17 That's all I can recall.

18 Q Are you familiar with the bond offering  
19 that was done by the State Police Commission?

20 A Oh, yes, I forgot about that. Yes, I  
21 recall that that one happened. That's kind of an  
22 example of an agency just -- that doesn't normally

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1 issue bonds going out and issuing bonds. And I don't  
2 think they have issued any before or since.

3 But it was not -- there was a question of  
4 whether it was actually a revenue bond or general  
5 obligation because the -- they were assessing some  
6 type of driver's license fees or something to pay off  
7 those bonds, I think.

8 Q With regard to the bond offerings you just  
9 identified that were done by the University of  
10 Arkansas, the Department of Education, the Student  
11 Loan Authority, and also State Police Commission, do  
12 you recall specifically why those offerings were done  
13 through those agencies rather than through ADFA?

14 A All of the higher education ones were  
15 specifically excepted from the legislation when ADFA  
16 was created. There was a clause in the legislation  
17 which said it was the intent to create the finance  
18 authority as the issuer of revenue bonds for state  
19 government. And there was a list of agencies which  
20 that covered, and then there were some specific  
21 exceptions; two of them I know were student loan and  
22 higher education.



1 I don't recall the Department of  
2 Education -- that's why I was saying I wasn't really  
3 sure what those -- how you would characterize -- it  
4 was kind of a revolving loan fund, but the Department  
5 of Education had run for years, and I just -- I don't  
6 know whether it was -- should have been covered by  
7 the legislation or not. I can't explain that.

8 Q How about the police commission offering?

9 A I don't know. I don't know why it was done  
10 separately. I can't recall.

11 Q Were you ever consulted about that bond  
12 offering or whether ADFA should be involved?

13 A No.

14 Q Do you know if anyone at the agency was?

15 A I don't know. If a contact was made,  
16 probably at some point, it would have risen to my  
17 level, but maybe not. I don't know.

18 Q Were there any state or federal agencies  
19 that had oversight over AHDA and ADFA?

20 A Well, I guess technically the IRS, they can  
21 conduct audits of tax exempt bonds. I don't recall  
22 any state level authorities that regulated us.

1 Q So you weren't regulated by the State  
2 Securities Commission?

3 A No, tax exempt bonds are exempt from  
4 registration.

5 Q During your time as director of AHDA and  
6 ADFA, were there any audits conducted of the agency  
7 by the IRS?

8 A No, not that I recall. I think I would  
9 have recalled that. I am fairly certain.

10 Q Did the agency have to submit any kind of a  
11 forms or documentation to the IRS with regard to the  
12 offerings, with regard to their regulation of the  
13 agency?

14 A At some point while I was there, we became  
15 subject to a reporting requirement for the mortgage  
16 revenue bond program which had to be done annually.  
17 And it was sent -- I am almost certain it was sent to  
18 the IRS.

19 And when bond issues were closed -- I think  
20 this was after '86 or sometime -- there is a form  
21 that has to be filed, it's called form 8038. And it  
22 is just more or less a notice form that goes to the



1 IRS, that generally describes the bond issue, the  
2 size, the purpose, the various interest rates of the  
3 bonds.

4 And once that's done, there normally is  
5 another contact that's required; except for that  
6 housing report, that has to be done annually.

7 MR. O'CALLAGHAN: Take a quick break.  
8 (Recess.)

9 MR. O'CALLAGHAN: Let's go back on the  
10 record.

11 BY MR. O'CALLAGHAN:

12 Q Right before we went off the record, you  
13 described for me form 8038 that needed to be filed.  
14 Did you say those weren't required until 1986?

15 A I think I am right. It could have been  
16 '84, I don't remember. At some point during  
17 the '80s, they became required. They were a series  
18 of tax bills, roughly every one to two years for a  
19 period there, that made various changes in tax exempt  
20 bond rules. And it is hard for me to keep up with  
21 which was which.

22 It was sometime '84 to '86. '86 was a

1 massive change because now it is the 86 code and  
2 before that it was the 54 code. But I think 8038  
3 came in in '84, but I am not certain.

4 Q Were you involved in helping to advise or  
5 design a legislative package to make it possible for  
6 ADFA to expand its authority?

7 A I was.

8 Q What was your involvement?

9 A It was extensive. I was a part of a  
10 working group that put together a large number of  
11 pieces of legislation that were generally referred to  
12 as the governor's economic development program of  
13 1985. And in the process, my focus was mostly  
14 related to putting together the legislation for the  
15 Development Finance Authority.

16 Q So if you would characterize your position,  
17 would you have been the lead person on that aspect of  
18 it?

19 A Probably that's the way it would be  
20 characterized, yes. We did have a group, as I said,  
21 but we kind of were assigned different  
22 responsibilities, and that was my chief

1 responsibility.

2 Q How many people were in the group?

3 A Oh, it varied. It was a fairly long period  
4 of time. We started in -- sometime in the summer and  
5 finished like March or April when the session was  
6 over.

7 Q Summer of 1985?

8 A 1984. It was completed in '85, right.

9 I would guess the number would have varied  
10 from time to time, as many as eight or 10, and give  
11 or take one or two people because some people  
12 would -- since it was such an extensive period,  
13 occasionally someone who ran another agency might  
14 send a representative to a meeting, so we had people  
15 coming in and out of the group.

16 Q Who else from your agency participated?

17 A It was principally me. I believe -- it is  
18 possible that one other person did, but I am not  
19 certain; Bill Wilson, maybe. I had two people that  
20 were kind of the equivalent of the deputies, and the  
21 other was C.E. Anderson. So either one of them or  
22 both could have participated somewhat.

1 Q For the record, C.E. Anderson are the  
2 initials, C.E., and then Anderson?

3 A Right.

4 Q Was anyone from the underwriting community  
5 involved in the working group?

6 A I don't believe so. It was -- the only  
7 people that I recall that were brought in from the  
8 outside were some lawyers to help us with our  
9 drafting work. It was a state government group of  
10 people that were putting together legislation for the  
11 state, and I don't believe any underwriters were  
12 involved, at least not as a part of the working  
13 group.

14 It is possible that from time to time, they  
15 were consulted or information was made available to  
16 them so that they knew what was going on and maybe  
17 had some input. But they were not -- not sitting at  
18 the table drafting or working on the legislation.

19 Q Do you recall whether there was any  
20 specific contact with any firms made while this  
21 development program was being put together?

22 A I can tell you that my goal throughout the

1 process was not to bring underwriting firms into that  
2 process.

3 Q Okay.

4 A And I believe we fairly well stuck to that  
5 policy.

6 Q Were any firms trying to get access to  
7 involvement?

8 A Sure, that's why I wanted to keep them out.

9 Q Do you recall who that was?

10 A I really don't. It's been too long.

11 Q Were there some firms that were in favor of  
12 it and some firms that were opposed to it?

13 A There were some firms in favor of it.  
14 There were some firms that were noncommittal, and  
15 there was one firm against it, at least one that  
16 would come out and say so.

17 Q Was there anyone from the governor's staff  
18 that was a member of the group?

19 A I know one member was Bob Nash, because  
20 that was his -- his responsibility on the governor's  
21 staff was, I think, he generally was liaison for  
22 economic development type efforts. I think after

1 that legislation that became more or less his title,  
2 but I think at that point it wasn't necessarily his  
3 title, his function was generally related to that.

4 Q Anyone else?

5 A I think we had one or two people, but I  
6 just don't recall their names. Bob was more or less  
7 the coordinator of the effort. And there were some  
8 other people that worked with him, and maybe with one  
9 or two of the other agencies that were affected by  
10 some of the legislation, but I just don't recall who  
11 they would have been.

12 Q Were you personally contacted by anyone in  
13 the underwriting firms during the summer of 1984 with  
14 regard to the economic development program?

15 A I don't recall. It would not have been  
16 unusual for someone just -- it probably wouldn't have  
17 been the summer of 1984, because that was the infancy  
18 of the process. But at some point when it became  
19 known we were putting legislation together, we had  
20 board meetings monthly, underwriters attended board  
21 meetings, and we reported at board meetings what we  
22 were doing, and I discussed it with my board. And I



1 discussed it with the people in the meeting to elicit  
2 any suggestions or ideas, or things like that, that  
3 they might have.

4 Q Were there suggestions that you requested,  
5 were they normally done orally? Did you ask for  
6 written proposals?

7 A No, I did not ask for -- I don't recall  
8 receiving writings. As much as anything, our goal  
9 was to survey what was going on around the country  
10 and take advantage of other people's successes and  
11 implement them in Arkansas. So that was the reason I  
12 would have elicited advice or -- as well as the fact  
13 that, sometimes what works in one part of the country  
14 doesn't work in Arkansas.

15 So I was interested in hearing Arkansans'  
16 reaction to if we wanted to do something some other  
17 state did, did they think it would work there. So  
18 that's what -- we were charting new waters for  
19 Arkansas particularly; and in many ways, it was  
20 fairly new for the rest of country as well.

21 Q With regard to board meetings, were those  
22 generally public meetings anyone could attend?

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1 A They were always public meetings because we  
2 have a Freedom of Information Act which requires they  
3 be public meetings, yes.

4 Q You said that underwriters generally  
5 attended the board meetings. Would underwriters from  
6 each underwriting House in Little Rock attend, or can  
7 you --

8 A Most of them. Well, it was firms that did  
9 work at the Authority, were parts of underwriting  
10 groups. Normally when a bond issue was done, we  
11 would have more than one underwriting firm involved  
12 in a bond issue. So when it was just the housing  
13 agency, we did strictly housing bonds, and so it was  
14 a smaller number during that period of the agency.

15 When we became the Finance Authority, we  
16 got into other types of financings and did business  
17 with larger numbers of firms.

18 Q When you said when it was the housing  
19 agency, small numbers of underwriters or smaller  
20 numbers of offerors or both?

21 A Both.

22 Q Was there a list of underwriters that the



1 agency used when it was the Housing Development  
2 Agency?

3 A Yes, there was what we referred to as our  
4 team of underwriters for the single family program,  
5 and then we had a team of underwriters for the  
6 multifamily program.

7 Q How were those teams established?

8 A Before -- they were actually put in place  
9 before I began my job there. I don't -- I can't say  
10 definitively because I wasn't there, but it occurred  
11 sometime in the first half of 1983. I know the  
12 single family one do, because they did a financing,  
13 sometime before June of '83, and that group of  
14 underwriters did that financing, so they would have  
15 been hired sometime before May or so of '83.

16 Q Do you recall who was on that team, which  
17 underwriters?

18 A I think I recall. I can tell you most of  
19 them, and I believe I will be right.

20 There were approximately six or seven firms  
21 and so I might miss one or two, but the senior  
22 manager, which is the underwriter that does most of

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1 the work, structuring the bonds, and then the lead  
2 underwriter for the bonds was PaineWebber. There was  
3 one or two New York firms that were co-managers. I  
4 believe First Boston was one, I don't recall who the  
5 other New York firm was. I think there was another  
6 New York firm.

7 And then there were, I believe, three local  
8 firms, T.J. Raney, Stephens, and it was a local  
9 office of George K. Baum. And I believe that's -- it  
10 is those plus one other firm that I can't recall.

11 Q Those are the New York firms?

12 A Yes, I think so.

13 Q And you said there was a PaineWebber and  
14 then there were some co-managers from New York. They  
15 also were lead underwriters, would they be  
16 characterized?

17 A There was only one lead, yes.

18 Q When you say co-manager, are you referring  
19 to them -- would that also be characterized as a  
20 co-underwriter?

21 A Yes, all of those others were  
22 co-underwriters, yes. Actually the full term is

1 co-managing underwriter, yes.

2 Q Do you know how this team was selected?

3 A I don't -- I can tell you what I know about  
4 it. I can't say exactly how it was selected. I know  
5 that there were requests for proposals distributed to  
6 a large number of firms. And the firms responded to  
7 those requests and were interviewed, and a group of  
8 firms were selected. I don't know much more than  
9 that is, because I wasn't there then.

10 Q Was this request for proposals for all bond  
11 underwritings, or just for that specific offering?

12 A I don't remember. I mean, I never did  
13 know, but when I came there, my -- what I was told  
14 was they were selected as our team for single family  
15 mortgage revenue bonds. And that was on an ongoing  
16 basis.

17 Q And did that come to change at any time?

18 A PaineWebber is still the lead underwriter  
19 there. Some of the co-managers changed. For  
20 instance, oh, I think -- I'm sorry. One of the  
21 co-managers I left out, I believe Lasater was in that  
22 group.

1 Q When you arrived?

2 A Yes, I forgot about that. That was one of  
3 the changes. So at some point later on, his firm  
4 went out of business so his firm dropped out of the  
5 group. I know, since I left the agency, another  
6 state firm has been added to the group because it's a  
7 firm that does business in the state. And from time  
8 to time the local firms have changed names or  
9 ownership or whatever, and they've either gone in or  
10 out of the co-manager group, but the lead managers  
11 stayed the same.

12 Q While you were director of the agency,  
13 could you give me a description of what criteria you  
14 used to pick co-managing underwriters for the  
15 different offerings?

16 A At what point in time was this in?

17 Q Why don't we start first when it was still  
18 AHDA and then we can go to ADFA after that.

19 A That's -- the difference is because when I  
20 was at AHDA, I am almost certain we didn't hire any  
21 underwriters during that tenure because we had -- we  
22 already had our multifamily team and our single

1 family team.

2 And so I don't recall -- well, I will take  
3 that back. I think we did one little financing, I  
4 don't remember who it was -- what was it? It might  
5 have been a home improvement type structure that we  
6 hired one firm do. It was a real small transaction,  
7 and I think they were basically hired because they  
8 had experience. Home improvement was a real tough --  
9 real narrow part of issuing bonds because they were  
10 small bonds and small bond issues, and not many  
11 people are interested in them.

12 So really we didn't have -- we were not in  
13 the routine of hiring underwriters until we became  
14 the Finance Authority, and of that the point we  
15 started doing new types of programs and so we set up  
16 a process, because we did it regularly, at that  
17 point. And we sent out requests for proposals which  
18 tried to elicit information from underwriters  
19 concerning what kind of experience they had in the  
20 various types of bond issues that we were doing, and  
21 asked them to tell us what they would propose to do  
22 with regard to that particular type of bond issue.

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1 And then we would try to analyze the  
2 proposals. In most cases we narrowed it down to a  
3 group of two or three, maybe four, that we thought  
4 were better than the others and had interviews where  
5 we could get more specific about what their  
6 capabilities were and what their proposal was with  
7 regard to what we wanted to do.

8 Q And that's with regard to the co-managers  
9 or is that lead underwriters?

10 A That was lead. We would usually select  
11 co-managers based on two criteria. One would be  
12 whether they had a presence in the state because we  
13 wanted to get a good effort to sell bonds within the  
14 state as well as out of the state, and get an  
15 understanding of what types of bonds needed to be --  
16 how they needed to be structured so we could sell  
17 some in the state.

18 And then we would usually bring in  
19 additional national firms to help us with either bond  
20 distribution, or maybe we thought that they had --  
21 ran a close second in their proposal and had some  
22 expertise to offer. It was just various reasons why



1 we would select different firms for co-managers.

2 Q So, from what I understand, first it was  
3 the presence in the state for the co-managers?

4 A Yes, that was the -- we had what we called  
5 our local group of underwriters that were involved,  
6 and that was their main -- the main basis for having  
7 them involved, yes.

8 Q What type of services did the local group  
9 of underwriters provide with respect to the  
10 offerings?

11 A Generally, what they did was sell bonds.  
12 Occasionally, they would have some input to the -- to  
13 the senior manager, concerning which types of -- you  
14 know, which maturities or structures of bonds were  
15 selling better in-state than others, so that those  
16 types of bonds might be structured into the bond  
17 issue.

18 Q And were the co-managers chosen at the same  
19 time as the lead underwriters, or was that --

20 A Usually, yes.

21 Q Did the lead underwriters have any say in  
22 who the co-managers would be, or was that

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1 determined --

2 A I don't recall that ever being the case. I  
3 don't believe so. If they had their way, there  
4 wouldn't be any co-managers.

5 Q Why is that?

6 A They will get to do it all themselves.  
7 More compensation.

8 MR. FEUER: So lead underwriters had to  
9 share compensation with co-managers?

10 THE WITNESS: Yes.

11 BY MR. O'CALLAGHAN:

12 Q So the agencies sent out requests for  
13 proposals; is that correct?

14 A Yes.

15 Q Who would -- with regard to the response to  
16 those requests, where would those be sent to? Who  
17 reviewed the responses?

18 A Well, it was -- almost always they were  
19 reviewed by a group of people on the staff  
20 initially. That is why I am not certain whether they  
21 would usually come to my office. And I would -- I  
22 think we usually got more than one copy and I would



1 keep a copy. And depending on the type of bond  
2 issue, I would give it to either our housing staff or  
3 our economic development area staff. And usually the  
4 finance director would get a copy.

5 So normally, there were three of us on  
6 staff that would review; it would be me and the  
7 finance director, and then either housing or economic  
8 development staff. And when I was there, I  
9 believe -- I believe almost exclusively we would get  
10 one or two board members to sit in on the oral  
11 presentations. And so I think they would get some  
12 copies of those, too; I am not certain. I don't  
13 remember.

14 I mean, at some point they would. I don't  
15 remember whether I would send them to them right off,  
16 or whether we would narrow it down and give them the  
17 ones that we were going to interview. I just don't  
18 recall.

19 Q So would you typically cull out who the  
20 agency was interested in before presenting proposals  
21 to the board of directors?

22 A That's what I recall. I believe that was

1 the case.

2 Q So after you and the staff reviewed the  
3 proposals and heard the presentations, what happened  
4 next in the process for granting the underwriting  
5 contracts?

6 A Once we would interview and determine who  
7 we thought was best qualified, we would report that  
8 to the board of directors and then they would  
9 formally hire the group.

10 Q How was that presented to the board?

11 A I can't recall exactly whether I did it or  
12 whether the board members that sat in on the  
13 interviews did it, but it was generally done in the  
14 form of like a committee report; like we have  
15 reviewed proposals, here is what we want to do and  
16 here are the people that we interviewed, and this is  
17 the group that we think is best qualified.

18 Q With regard to the recommendations that  
19 were made to the board by you and the staff, were  
20 they generally accepted or --

21 A As I recall, yes. I mean, I know they  
22 generally were, and I'm -- I don't know if there were

1 exceptions or not. I just can't remember.

2 Q Do you recall whether the board chose  
3 underwriters other than those that were recommended  
4 by the staff?

5 A I don't recall whether that happened. If  
6 it happened, it wasn't very often.

7 Q I would like to show you a document which  
8 bears Bates stamp DKS N 027415 through 18. It is  
9 still difficult to read the Bates on the copy, but I  
10 can represent to you that's what they are. I will  
11 show it to you and your counsel. Take a moment to  
12 look at it.

13 MR. STRASSER: You don't have a second copy  
14 for me?

15 MR. O'CALLAGHAN: I am trying to minimize  
16 the Committee's costs here so I only made two copies.

17 MR. STRASSER: That's fine.

18 BY MR. O'CALLAGHAN:

19 Q Okay. The first question I have is, have  
20 you seen this document before?

21 A I don't remember ever seeing it. I notice  
22 it references financings up through 1991. And I left

1 the agency in -- the authority, rather, in '89, so  
2 that's probably why I haven't seen it before. I  
3 don't recall ever seeing it.

4 Q You mentioned earlier that there was a team  
5 of underwriters that you had to get for single family  
6 housing, and you also mentioned there was a team for  
7 multihousing. First, I should ask you if you recall  
8 what that team was?

9 A I believe -- I am almost certain that  
10 firm -- oh, I tell you what, okay. We didn't do but  
11 one multifamily deal. The senior manager was Merrill  
12 Lynch, and I cannot recall who all of the co-managers  
13 were. I know we had several local firms that were  
14 co-managers, and I just don't recall exactly who they  
15 were.

16 It was -- it was probably the same group I  
17 gave you that were single family, but I would hate --  
18 since we only did one financing that was multifamily,  
19 my memory is just not very good about that.

20 Q Do you know when the teams were put  
21 together, that you referred to?

22 A Sometime in '83; first four, five months of

1 1983.

2 Q Before those teams were assembled, do you  
3 know how the authority chose its underwriters and  
4 co-underwriters?

5 A No, I really don't.

6 Q You have never been told?

7 A No.

8 Q Do you know if it was restricted to a  
9 certain number of underwriters?

10 A No, I don't have -- I don't have any  
11 recollection and I am not sure I ever knew.

12 Q Okay. At any time when you were at the  
13 agency, were there any underwriters that the agency  
14 wasn't willing to do business with?

15 A You mean any in the whole country or just  
16 in Arkansas, or --

17 Q We could start with Arkansas.

18 A I don't -- well, there were a few real  
19 small firms in Little Rock that we didn't add. And I  
20 guess there was some reason for that, but I don't  
21 know that it was -- that we wouldn't ever do business  
22 with them. I think we tried to select the firms that

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1 we thought would give us our best coverage around the  
2 state in terms of the sales effort.

3 Back in the -- sometime in the '80s --  
4 early to mid-'80s, there were a lot more firms there  
5 than there are now. And many were what we refer to  
6 as bucket shops that didn't have very good  
7 reputations and they were strictly sales-oriented,  
8 didn't have underwriters that would structure bond  
9 issues. And so we limited our involvement to firms  
10 that actually had underwriters assigned or that were  
11 employed at the firm.

12 And that's the main limiting factors --  
13 those two things, coverage for sales and also having  
14 an underwriter.

15 Q Did either the Housing Agency or Finance  
16 Authority ever conduct due diligence with regard to  
17 the firms that were being hired to do the  
18 underwriting?

19 A I don't recall ever doing more than just  
20 checking references that they might have on their  
21 proposals, and reviewing their proposals. We  
22 looked -- generally we looked much more closely at



1 who the lead underwriters were and tried to make sure  
2 we had people that could carry the burden of putting  
3 it together, and structuring the transaction.

4 And the co-managers' roles were a lot less  
5 important and we put a lot less emphasis on that.

6 Q So to your knowledge, did the agency ever  
7 do a review of the disciplinary history of the firms  
8 involved in the underwritings?

9 A I don't -- I don't think we ever did. It  
10 is hard to say we never did, I just don't recall it  
11 happening. I will put it that way.

12 Q Did the agency have any contact with the  
13 NASD while you were there?

14 A Well, I didn't, but I don't know -- I can't  
15 speak for everybody else at the agency. I don't have  
16 recall having contact with the NASD while I was  
17 there.

18 Q How about the SEC?

19 A I don't recall that, either. No, I don't  
20 remember any such contact.

21 Q Do you know when Collins, Locke & Lasater  
22 or Lasater & Company first became involve in

1 underwritings with the agency?

2 A I believe it was when the groups were  
3 selected in the spring of '83. That's -- all I know  
4 is, for certain, is that they were a part of the -- I  
5 believe they were part of both the single family and  
6 the multifamily groups when I started work there.  
7 And my impression was that those groups were  
8 selected, you know, the first several months of '83  
9 sometime.

10 Q If I have already asked this, please let me  
11 know, and if you answered it, you don't have to  
12 repeat your testimony. Do you know who was involved  
13 in the selection process for the two teams?

14 MR. STRASSER: I don't think he answered  
15 that. He said it was before his time.

16 THE WITNESS: If I didn't answer it before,  
17 my answer is I don't remember. Not that I don't  
18 remember. I didn't know who it was, or the process  
19 that was gone through. I think what you asked me was  
20 when it was done, and things like that.

21 I don't think you asked that question, but  
22 my answer is, I don't know. I wasn't there and I



1 didn't -- I don't recall ever hearing exactly how it  
2 was done.

3 BY MR. O'CALLAGHAN:

4 Q Would that generally have been a board  
5 decision?

6 A Yes, my -- the board would have made the  
7 final decision. Now the question was, whether they  
8 conducted interviews with the board involved or not  
9 and I just don't know. I couldn't swear that they  
10 even had interviews. They could have just taken  
11 proposals and picked it from reading the proposals.  
12 I don't know.

13 Q With regard to the selection of the teams,  
14 would the governor have to okay that as well?

15 A No.

16 Q While you were at the agency, did there  
17 come a time when the teams were expanded or more  
18 underwriters were added or subtracted?

19 A Yes, there were changes from time to time.  
20 And I just can't remember all the circumstances. I  
21 know, for instance, George K. Baum was dropped  
22 because their underwriter left that firm, and they no

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1 longer had an underwriter. And he went over to  
2 another firm and so his firm was -- was -- where that  
3 person went, that firm was added. That might have  
4 happened after I left that, I can't remember.

5 Llama Company became -- it was a new  
6 company and it was added, I think, after I came --  
7 after I left, I mean.

8 One deal I remember, we did a transaction  
9 where a New York bank provided -- they were what we  
10 referred to as the tender agent for a tender option  
11 bond, which was one maturity that we added to the  
12 bond issue. And because they were the tender agent,  
13 they were added as a co-manager.

14 I think that's why Norwest securities is in  
15 here, too. I'm sorry, Norwest Investment Services.

16 Q Looking at the different underwriters who  
17 were bidding on the different issuances, was the net  
18 capital of those firms ever looked at or considered?

19 A I think it was, particularly for the senior  
20 manager category. I'm not sure if we did for the  
21 co-managers or not. I just don't remember.

22 Q Who would have conducted that type of

1 review? How would it have been done?

2 A Well, normally, I believe we -- somewhere  
3 in our request for proposals, they normally gave us  
4 that kind of information, I believe. If it wasn't in  
5 there, I am not sure how it would have been done.

6 Q Do you recall firms ever being shut out of  
7 the process due to problems with their net capital?

8 A I don't remember that happening. I just  
9 don't know.

10 Q So the information that the agency had with  
11 regard to firm's net capital status was provided by  
12 the firms?

13 A I believe so. I think we asked them for  
14 their annual reports or whatever they had, I don't  
15 know what you call that. I think they have to do  
16 some kind of annual report regularly, and some of  
17 them do it up in a nice slick publication, and I know  
18 we typically had those on file.

19 Q While you were at the agency, did you ever  
20 hear that Lasater & Company ever experienced any  
21 problems with their net capital?

22 A I don't recall.

1 Q Is that something you would remember,  
2 normally, or --

3 A Well, I mean the problem is, they went out  
4 of business at some time while I was there. So it is  
5 possible that that was what I heard when they went  
6 out of business. I just don't know.

7 That's the main problem with them, being  
8 able to figure out what -- because since they went  
9 out of the business, a lot of things could have been  
10 mentioned to me at that point in time. I just don't  
11 know.

12 Q While you were at the agency and they were  
13 still doing business with the agency, were any  
14 problems with the firm ever brought to your  
15 attention?

16 A Well, it is pretty broad to say "any  
17 problems." I couldn't say whether there were any  
18 problems were brought to my attention, because you  
19 could pick up the paper in a given week and Merrill  
20 Lynch, PaineWebber, a lot of people have problems  
21 mentioned in the press. And it was not that unusual  
22 for people to file various kinds of complaints all

1 around Little Rock in those days, so I don't  
2 remember. I can't say.

3 Q Do you recall any specific instances where  
4 problems with Lasater & Company were brought to your  
5 attention?

6 A No, I don't recall specifics.

7 Q During the period 1983 through 1986, did  
8 you have any interaction with anyone at Collins,  
9 Locke & Lasater or Lasater & Company?

10 A I did. The only person I recall having  
11 interaction was with was a person named Michael  
12 Drake. He was apparently assigned to be responsible  
13 for the Housing Development Agency and ADFA account  
14 so he attended board meetings and was the person who  
15 would put together proposals, if any proposals were  
16 requested, and would be the contact for that firm.

17 Q So during that time period, just generally  
18 how often would you have contact with him?

19 A Oh, I believe it depended -- it would  
20 usually depend whether we had a bond issue that was  
21 being worked on, and in the process of being  
22 completed, I might have seen -- for instance, the

1 co-managers would usually have contacted me at some  
2 point, by phone or otherwise, during that process to  
3 maybe inquire about the bond issue or whatever.

4 But normally my contact with co-manager  
5 types like Michael Drake were at the board meetings,  
6 on a monthly basis. They would attend the board  
7 meetings.

8 Q Did you have any personal one-on-one  
9 contact with him?

10 A I don't recall whether I did or not. If I  
11 did, it was very infrequent.

12 Q Did you ever have any meetings or  
13 discussions with him where he was pitching his firm  
14 as possible co-underwriters?

15 A Probably did. He was pushy. He was always  
16 trying to pitch something to me whenever I saw him.  
17 But I recall one meeting in -- shoot, I can't -- I am  
18 afraid to say the year, but it was after I had been  
19 there a while and he had teamed up with E.F. Hutton,  
20 and maybe another firm, I can't remember. And we  
21 were about to price a bond issue -- meaning go to  
22 market with a bond issue -- that PaineWebber was



1 running. And he called me to a meeting -- I think it  
2 is the only time I ever went over to the building --  
3 he called me to a meeting.

4 And he and some people with Hutton tried to  
5 convince me that they had some kind of new wiz-bang  
6 structure that would do things for us that the  
7 other -- that PaineWebber couldn't and that we needed  
8 to call off the PaineWebber bond issue and do that  
9 one right at the 11th hour. I think we were going to  
10 price two days later than that.

11 It was a very unusual meeting, is the  
12 reason I remember it. He was a co-manager with  
13 PaineWebber and normally that's not something that a  
14 co-manager is supposed to do, is go hook up with  
15 another manager and try to torpedo the deal. That's  
16 the main reason I remember the meeting.

17 Q Do you remember when that took place, what  
18 year?

19 A I believe it was '85. I am not certain.

20 Q Do you remember which underwriting it was  
21 in relation to?

22 A It was a single family bond issue.

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1 Q Do you recall specifically which one?

2 A I think I do, because, as I say, it was an  
3 unusual circumstance. And I think it was in the  
4 summer of '85, and it was a large bond issue. It was  
5 the largest one we ever did, at least for single  
6 family, anyway. It was probably one of the two or  
7 three largest ever done.

8 And up until that time, we had never done  
9 one that large, so that was another reason it stuck  
10 out in my memory. It was a \$175 million single  
11 family bond issue.

12 Q Did you end up staying with PaineWebber and  
13 the group that was initially set up?

14 A Yes.

15 Q Did Lasater & Company participate as  
16 co-manager with PaineWebber?

17 A They did.

18 Q Were there any specific reasons why you  
19 didn't go with the Hutton proposal?

20 A Well, the basic reason was that it was at  
21 the 11th hour. We had gone a long way with the  
22 proposal -- not with the proposal, with the structure



1 that PaineWebber had been working on for some time.  
2 You don't just cook these things up overnight. It  
3 takes a lot of legal documentation and planks to get  
4 ready to market bonds and we were just days away from  
5 marketing bonds.

6 And my concern -- I had two concerns. One  
7 was, I wasn't able to evaluate their proposal  
8 sufficiently, just sitting in a meeting and listening  
9 to them. And I wasn't sure I would have time to  
10 evaluate it without somehow delaying the pricing that  
11 PaineWebber wanted to conduct.

12 And the timing was just terrible. And that  
13 was the basic reason I didn't -- their proposed  
14 structure had some merit, but I wasn't convinced that  
15 they had actually solidified that structure. I mean,  
16 it was an idea, but I wasn't sure it was actually  
17 something that they could carry out.

18 Q Did anyone else attend that meeting?

19 A Yes, but I don't remember -- I know it was  
20 Michael Drake and probably -- I know it was people  
21 from Hutton, I don't remember how many. And I know I  
22 attended, and I believe -- I believe that our bond

1 counsel attended.

2 Q And who was that?

3 A It would have been someone from Wright,  
4 Lindsey & Jennings and I don't know which person it  
5 would have been from there. It would have been that  
6 firm that was represented, I believe. Because I  
7 wanted someone that was familiar with the legal  
8 documents of what we were doing to be there also.  
9 And I believe that there was an attorney that did  
10 some work for Hutton, a local attorney that did work  
11 for Hutton was there, I believe. A lady from the  
12 Mitchell firm, I think.

13 Q So, you stated this is a pretty unusual  
14 occurrence. Did you ever have experience with  
15 anything like this before where someone came in with  
16 a last-minute proposal?

17 A No.

18 Q Did you run this by other staff members or  
19 any members of the board?

20 A I don't remember. My guess is I would  
21 have -- my normal procedure would have been to  
22 mention it to the chairman of the board because the

1 chairman and I worked fairly closely together.

2 Q Who was that at the time?

3 A That's a good question. I don't remember.  
4 We -- at that point, I believe we changed chairmen  
5 every year. At some point later we started -- we did  
6 that every two years. So it was hard for me to  
7 remember who that would have been at that point in  
8 time. And again, this was 1985, so we acquired a new  
9 board at some time around that same period, around  
10 the summer of 1985.

11 Q How difficult was it for local Arkansas  
12 firms to be included in underwritings --

13 MR. FEUER: Michael, could I ask a few  
14 questions on that point if you are going to move off  
15 of that meeting just a few questions?

16 MR. O'CALLAGHAN: Yes, sure.

17 MR. FEUER: Thank you.

18 EXAMINATION

19 BY MR. FEUER:

20 Q Had the ADFA determined to use PaineWebber  
21 as the lead underwriter on the \$175 million single  
22 family bond issue?

1 A Right. They were -- as I explained  
2 earlier, they were selected as the lead manager of  
3 that team. And in fact, I can't swear to it, but I  
4 believe, before we went to that pricing, before we  
5 got to the stage when this meeting occurred, there  
6 had been some sort of resolution passed by the board  
7 authorizing them to move forward with that specific  
8 financing.

9 The routine was we had this team in place,  
10 and whenever we determined we wanted to do a  
11 financing, there would be a resolution adopted  
12 stating the prospect that we expected to complete a  
13 financing in the near future and that the  
14 professionals were authorized then to move forward  
15 with that financing.

16 And I think sometime around '84 we had to  
17 have public hearings, what we call the TEFRA, that  
18 was the name of the Tax Act that instituted that  
19 hearing, the '84 Tax Act I believe was the TEFRA  
20 Act.

21 And so that -- that required that you have  
22 some type of official action indicating you expected

1 to do the deal. And then you would have a public  
2 hearing for any public input that might come in, and  
3 then move forward with the financing. You would be  
4 moving forward with it, but then that would be one of  
5 the steps you would have to complete before  
6 completing the financing.

7 So, yes, we had -- there had been more than  
8 just me calling up PaineWebber and saying I want you  
9 to do this bond issue, you know.

10 Q And at the meeting you described, did  
11 Michael Drake ask you to replace PaineWebber with  
12 E.F. Hutton as the lead manager for that bond issue?

13 A I believe he asked that -- he might not  
14 have asked that very specific question, but the whole  
15 purpose for the meeting was they had a better deal  
16 than PaineWebber's deal and we needed to do that  
17 one. And whether he said you have to replace them  
18 with us, I can't swear, but that was the purpose of  
19 the meeting, for that to occur.

20 Q Ultimately, did you proceed with  
21 PaineWebber as the lead underwriter on that deal?

22 A I did.

1 Q Was Michael Drake disappointed that you  
2 proceeded with PaineWebber?

3 A I'm sure he was, I don't know. I don't  
4 recall what he might have said to me. I think he and  
5 E.F. Hutton both were.

6 Q You had the impression they were both  
7 disappointed?

8 A I know that E.F. Hutton was. What Drake  
9 said, I don't -- I don't recall. I just recall that  
10 E.F. Hutton contacted several of my board members  
11 expressing their discontent. And I had one or two  
12 conversations with board members later, explaining to  
13 them what I saw the situation to be.

14 MR. FEUER: Thanks, Michael.

15 EXAMINATION

16 BY MR. O'CALLAGHAN:

17 Q Do you remember which board members talked  
18 to you about their contacts with E.F. Hutton being  
19 disconcerted?

20 A Only one I remember, because it was raised  
21 at that board meeting, and the person I recall was a  
22 member named James Branyan. And he was always a real



1 upfront kind of guy and he just said look, E.F.  
2 Hutton has contacted me and they told me you didn't  
3 treat them right and you should have done their  
4 transaction, and what do you have to say about that.

5 And I told him exactly what I had to say  
6 about it, as I recall. I don't remember exactly what  
7 I said, but other than that, I don't -- I remember --  
8 I believe that I talked to one or two other board  
9 members separately, but it's been too long. I don't  
10 remember exactly.

11 Q Was he satisfied with your explanation?

12 A I think he was, the best I can recall.

13 Q With these teams of underwriters that were  
14 set up, if someone was on the team and made a  
15 proposal, a co-underwriter made a proposal to  
16 participate in an underwriting, would they generally  
17 be included in the underwriting, or was there  
18 competitive environment? How was that set up?

19 A Normally we just didn't have -- we didn't  
20 entertain proposals that just walked in the door more  
21 or less, is what I am saying. We normally  
22 entertained proposals whenever we had a particular

1 financing that we wanted to accomplish. And we would  
2 circulate requests for proposals, and then do it in  
3 an organized fashion like that.

4 (Recess.)

5 MR. O'CALLAGHAN: Back on the record.

6 BY MR. O'CALLAGHAN:

7 Q With regard to requests for proposals, how  
8 was it determined which firms would receive those?

9 A I don't remember exactly. We would -- we  
10 would use as a reference what we called the red book,  
11 which is a book published by the publishing company  
12 that owns the bond buyer. And I know we didn't send  
13 it to every company in the red book, but we would  
14 send to it selected people in the red book.

15 And I know that one rationale that we used  
16 was that we would include national firms that had  
17 local offices, usually exclusively, and then we would  
18 pick other firms that we happened to know that might  
19 be active in the particular area of finance that we  
20 were interested in doing a bond issue for.

21 Q But with regard to the single family  
22 mortgage revenue bonds, that was generally the same



1 group?

2 A Yes, we did not -- while I was there, we  
3 never sent out a group of requests for proposals for  
4 the single family housing group. That group is still  
5 in place.

6 Q Why has that stayed static versus the  
7 other?

8 A I don't know. That's more or less the  
9 board's position.

10 Q I left this earlier, but I asked you if you  
11 had any interaction with Collins, Locke & Lasater and  
12 Lasater & Company between 1983 and 1986. You  
13 mentioned contact with Michael Drake; you mentioned  
14 specifically a meeting that he had called that you  
15 had gone over to Lasater & Company's offices.

16 Do you remember any other specific contacts  
17 you had with Mr. Drake during that time period?

18 A Not specifically. You know, he attended  
19 board meetings and whenever we would complete a  
20 financing, we would generally have closing dinners  
21 and he would usually attend those. I don't recall  
22 having any other kinds of contact with him.

1 Q How about with anyone else at the firm?

2 A I don't remember whether he might have,  
3 from time to time, maybe brought another person with  
4 him to the board meeting, but I just don't remember  
5 any names. If he did, I don't know.

6 Q Did you have any contact with Dan Lasater  
7 during this time period?

8 A I don't recall ever having contact with  
9 him. I don't think I ever met the man. I am not  
10 certain. I mean, I knew what he looked like and I  
11 have seen him occasionally around town, but if I ever  
12 did meet him, it was just to shake hands and  
13 introduce myself and he himself, and I moved on,  
14 because I -- I don't recall having any kind of  
15 conversation with him.

16 Q Not on the phone or anything like that?

17 A No.

18 Q How about with Patsy Thomasson?

19 A I don't recall. Of course, I am not sure  
20 when she went to work there. I might have had some  
21 contact with her during that period, but I don't know  
22 that it would have been related to her work at

1 Lasater. She had been around town for a while and  
2 had other jobs, and was active in Democratic Party  
3 work, and had been on the -- I think she had been on  
4 the state highway commission, and so it is possible I  
5 did.

6 I don't recall having contact with her,  
7 with regard to Lasater. I don't know why. It was  
8 really not her job to do anything with me, so I don't  
9 believe so.

10 Q Did you meet her before you started working  
11 at the housing authority?

12 A I believe I did, but I can't say for  
13 certain.

14 Q Would that have been in connection with  
15 campaign work?

16 A Probably that or Democratic party  
17 conventions and things like that.

18 Q Did ADFA have any dealings with the State  
19 Highway Commission?

20 A No, no, I am just saying that's a very  
21 visible position for someone, and so she was very  
22 well known.

1 Q That's an important position?

2 A Right. It has a 10-year term, so that's  
3 one of the -- and there are only five of them.

4 Q Did you have any contact with anyone by the  
5 name of Tom Carter at Lasater & Company?

6 A I don't recall any Tom Carter.

7 Q Other than any lobbying efforts that  
8 Mr. Drake might have done, did anyone else ever do  
9 any lobbying to you with regard to Lasater & Company  
10 participating in bond underwritings?

11 A I don't recall anyone else.

12 Q Do you know or have you ever become aware  
13 of any lobbying done by Lasater & Company employees  
14 to members of the board of ADFA?

15 A No. I don't recall one way or the other.  
16 I just don't know.

17 Q Was that a general practice for  
18 underwriters to lobby board members to get contracts?

19 A Well, I am not sure what you mean by  
20 "lobby." It was common for board members to be  
21 perhaps invited to lunch, or at board meetings,  
22 underwriters would just go up and speak to board

1 members. It was not common for them to just walk up  
2 to a board member and say, hey, give me some  
3 business.

4 It was generally just a matter of trying to  
5 create a friendship and rapport and working  
6 relationship. And that was generally the context of  
7 the interchange between them, was more of a social  
8 nature than a real lobbying effort.

9 Q Did you ever come away with the idea that  
10 one firm did more of that kind of activity than any  
11 of the others?

12 A I don't -- other than that one period of  
13 time that I spoke about, about this meeting at  
14 Lasater and with E.F. Hutton, at that period of  
15 time. With that exception, no. Those two firms,  
16 during a period in and around that deal, were very  
17 active. Other than that, I don't think any one firm  
18 stood out particularly.

19 Q Did you attend a meeting sponsored by E.F.  
20 Hutton and Lasater in or around January of 1985 at  
21 the Legacy Hotel with regard to financing proposals  
22 by that group?

1 A I don't remember it. I mean, maybe if you  
2 tell me more, it might come back to my memory, but I  
3 don't remember that.

4 Q The meeting was attended by the governor  
5 and members of the governor's staff. Presentations  
6 were made by Hutton and Lasater.

7 A I just don't remember it.

8 Q Did underwriters make general presentations  
9 to ADFA staff members with regard to the kind of  
10 structures they would like to do or be involved in?

11 A Rarely. Occasionally what would happen  
12 would be maybe -- usually it was the New York firms  
13 that perhaps had done unique financing that, in their  
14 words, no one else had done and it was real  
15 proprietary. So they would sometimes go around the  
16 country meeting with people saying here is something  
17 we have done recently, maybe you should consider  
18 doing this.

19 Q I would like to have you take a look at a  
20 multipage document. It has a cover page,  
21 "memorandum" on it, Bill Clinton's name at the top,  
22 says "To: Gov." -- the date is 10/9/86 -- "from:



1 Betsey" and the subject is ADFA fact sheet. That's a  
2 three-page document. Two pages follow it which read  
3 "Arkansas Development Finance Authority bond issues  
4 1978 to 1986."

5 Take a moment to review that and I will  
6 give counsel a copy as well.

7 THE WITNESS: Okay.

8 MR. STRASSER: Wait, I haven't finished  
9 yet.

10 BY MR. O'CALLAGHAN:

11 Q Actually, the cover page here says  
12 "attached is the first draft of the ADFA fact sheet  
13 which will be given to Brummet and Barton today.  
14 Definitions will be added to it, and the column for  
15 'underwriters' counsel' will be next to the  
16 underwriters. Courtesy calls will be made by Wooten  
17 to the firms this morning telling them we're  
18 releasing it. In your meeting with Herschel Friday  
19 you should acknowledge/explain that." Have you ever  
20 seen this document before?

21 A I don't remember. It's been too many  
22 years.

1 Q Do you recall making courtesy calls to  
2 firms, informing them that a list of the underwriters  
3 was being released?

4 A No. What this does bring to my  
5 recollection is, that since she mentions Brummet and  
6 Barton, Brummet was with The Arkansas Gazette and  
7 Barton was with The Arkansas Democrat. And October  
8 of '86 would have been approximately a month before  
9 the 1986 election. And I recall at some point,  
10 probably around this date, which is probably why this  
11 was generated -- and my guess is that this document  
12 was generated at the agency and I had seen it, but I  
13 just don't remember. There was an issue raised in  
14 the campaign by the governor's opponent, Frank White,  
15 concerning an inordinate -- in his allegation, that  
16 there was an inordinate amount of involvement by  
17 Lasater in the bond issues that the Housing Agency  
18 had done.

19 And, so, this was probably generated to  
20 address that and point out who did what in what bond  
21 issues.

22 Q So this was -- the second two pages was



1 information generated by the agency?

2 A Probably was. I just -- I recall that we  
3 generated some information around the time that that  
4 issue was raised, and this is probably it, because it  
5 was in the newspapers. I remember specifically  
6 sitting down with this fellow, Barton, and having a  
7 fairly lengthy interview.

8 Q Just for clarity, do you know from who  
9 "From: Betsey" is? Do you recall?

10 A I assume it was Betsey Wright.

11 Q You don't know?

12 A That's the only Betsey I know that would  
13 address the governor as "gov."

14 Q I would like to direct you to the third  
15 page of the document, 26127, and just -- you had  
16 mentioned earlier a meeting that you had with Michael  
17 Drake with regard to \$175 million single family  
18 offering. Is that --

19 A It would be 1985 A 175 million single  
20 family.

21 Q It would be the sixth underwriting listed  
22 there?

1 A Yes. Right.

2 Q So Lasater did participate in that?

3 A Yes.

4 Q Okay. I would like to direct your  
5 attention to the first page -- the second page,  
6 26126, and with regard to the listing of the  
7 underwritings, 1978 A, which is 15 million single  
8 family underwriting. Then there's an additional nine  
9 underwritings, 1978 through 1982, which basically all  
10 utilized the firms, E.F. Hutton, Stephens T.J. Raney,  
11 with one exception, 1982 B underwriting which  
12 contains George Baum, and also 1978-79 which includes  
13 Merrill Lynch.

14 Do you know how those firms were selected  
15 during that time period?

16 A I have no idea.

17 Q Do you know if there is a specific point in  
18 time in the agency's history that there was an effort  
19 to expand the number of underwriters being used?

20 A I think in 1983 that that was the case.

21 My -- my recollection is that Bob Nash -- when I  
22 first was hired, Bob Nash was the liaison on the

1 governor's staff. And he gave me a lot of background  
2 with regard to what was going on when I stepped into  
3 the job.

4 And I just seem to recall him saying that  
5 there was an effort to try to include more different  
6 firms in the business of the agency. But, that could  
7 have been somewhat later. But just looking at the  
8 list here, it is apparent that that was the case in  
9 '83.

10 Q Were you ever specifically asked to include  
11 certain underwriting firms in any bond offerings?

12 A Well, yes. A lot of underwriters called me  
13 and asked me to include them in underwritings.

14 Q Were you ever asked by anyone on the  
15 governor's staff to do that?

16 A I don't recall ever being asked.

17 Q Were any underwriting firms identified as  
18 firms that the governor's office would like to see  
19 included in underwritings?

20 A No. Occasionally, I got questions from  
21 board members and Bob Nash, but they were questions  
22 because they had gotten a call from somebody

1 complaining usually. It was not proactive but  
2 reactive type conversations, thinking they hadn't  
3 been treated fairly, and they were complaining to  
4 either a board member or somebody on the governor's  
5 staff.

6 Q And while you were acting as director  
7 then -- I guess, was it later president; is that  
8 right?

9 A Later it became president when it was the  
10 Finance Authority, right.

11 Q While you were acting in that position, who  
12 in the governor's office did you have contact with?

13 A Regularly I had contact with Bob Nash. He  
14 was the liaison that I was instructed to report to  
15 while I was in that job. In his capacity as  
16 liaison -- I think he was like special assistant for  
17 economic development or something of that nature --  
18 he was the liaison for several different state  
19 agencies, including the Finance Authority.

20 Q And what type of reporting did you do to  
21 Mr. Nash?

22 A It was informal. Just occasionally, just

1 to contact him and let him know what was going on.  
2 Sometimes I would contact him just to find out what  
3 else was going on in state government, involving --  
4 once we got into the broader role, there were things  
5 going on within state government that we needed to be  
6 involved in. And he was kind of my pipeline of  
7 information in that regard.

8 Q Was anyone else in the governor's office in  
9 regard to ADFA issues?

10 A No, it was Bob's responsibility. I believe  
11 the staff was organized in such a fashion, if anyone  
12 on the staff had input they would go to Bob, and then  
13 it would come through Bob to me.

14 Q Was the governor's office ever involved in  
15 a decisionmaking process with regard to choosing an  
16 underwriter?

17 A I don't recall them ever being while I was  
18 there.

19 Q With regard to bond counsel for the  
20 underwritings, how were those usually chosen?

21 A They were -- well, '83 through '86, I think  
22 in every case but one, they were chosen before I got

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1 there. They were assigned to the single family  
2 financings or the multifamily financings.

3 And I think we did one small multifamily --  
4 where is that little -- now I don't see. I am not  
5 certain. I am talking about from '83 forward --

6 Q I might be able to give you a document  
7 which might be more instructive, actually?

8 A Okay, yes.

9 Q Unfortunately, during the copying, some of  
10 the Bates number was knocked off of this, but it's a  
11 multipage document, bears -- from what I have is DKS  
12 02737 series. And I think it is -- I believe it  
13 starts on 27372. It is an 11-page document. It is  
14 entitled "Arkansas Development Finance Authority bond  
15 underwriters, bond counsel and special tax counsel."

16 Take a moment to review that generally. I  
17 will give counsel a copy, too.

18 MR. STRASSER: Thank you.

19 (Pause.)

20 THE WITNESS: Okay. What was the question  
21 again?

22 BY MR. O'CALLAGHAN:



1 Q The question was, with regard to how --  
2 what criteria were used for choosing bond counsel in  
3 different underwritings.

4 A With regard to the ones on this list you  
5 just gave me, these bond -- the bond counsel on all  
6 these were selected when I went to work there. So I  
7 didn't select any of the bond counsel for any of  
8 these.

9 Q Do you know how they were selected?

10 A I don't. I don't -- I don't know that I  
11 ever heard. But I believe they were selected at the  
12 same time that the underwriting group was selected in  
13 the spring of 1983. And if that's the case, they  
14 were probably selected through sending out  
15 proposals -- requests for proposals. I am just not  
16 certain.

17 Q Just so I understand how it was set up,  
18 there were counsels that worked for the different  
19 underwriters; is that right?

20 A Underwriter's counsel, in addition to bond  
21 counsel, right.

22 Q What's the distinction between those two?

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1 A The main distinction is their function.  
2 Bond counsel puts together what we refer to as the  
3 bond documents, the indenture. And the  
4 underwriters's counsel, in its representation of the  
5 underwriter, helps the underwriter put together its  
6 offering document, the official statement, prepares  
7 the bond purchase agreement because the underwriter  
8 enters into that contract with the issuer.

9 And they generally also conduct what's  
10 called a blue sky survey to see what the various  
11 state securities laws are and whether the bonds can  
12 be offered in the states that the underwriter wants  
13 to offer the bonds.

14 And so their role is one of representing  
15 the underwriter in whatever it is the underwriter has  
16 do in its efforts to underwriting bonds and marketing  
17 them.

18 Q So bond counsel would be hired by the  
19 authority?

20 A Right.

21 Q Underwriter's counsel?

22 A Would be hired by the underwriter.



1 Q Were other counsel involved, like  
2 representing the authority in other norm --

3 A As you will note on this, it is call  
4 special tax counsel. That designation or that  
5 counsel was generally used for single family bonds.  
6 I don't recall using the special -- that special tax  
7 has been used for other kind of bond issues. Single  
8 family mortgage revenue bonds are very complicated  
9 from the tax standpoint. From the rules that  
10 Congress has adopted that control mortgage revenue  
11 bonds, they are very much more complicated than, say,  
12 issuing a sewer bonds or a water bond.

13 And that expertise is found more so in  
14 larger law firms that do a lot of that kind of work,  
15 and so, as the tax laws got more complicated  
16 throughout the early '80s when I came to the  
17 authority, they had determined to use a special tax  
18 counsel -- Webster and Sheffield was the first one --  
19 to perform that narrow function of making sure that  
20 all the various tax requirements were met, in  
21 addition to the bond counsel just putting together  
22 the normal documentation for the bonds.

1 Q And do the board of directors choose the  
2 special tax counsel and the bond counsel, also?

3 A Right.

4 Q Was there any counsel used just by the  
5 authority in general to represent them?

6 A Rarely. There were a few cases, whenever  
7 it was a financing that involved a lot of different  
8 borrowing in a pool type finance thing -- which meant  
9 that we had an ongoing program, not just we closed  
10 the bonds and that's the only thing we need a lawyer  
11 for -- we would occasionally -- I recall doing it may  
12 be two or three times, later in my tenure there when  
13 we got into a lot of other kinds of financings, but  
14 it was not normal.

15 I am a lawyer and most of the legal issues  
16 that arose that I felt the authority might need  
17 advice or counsel on, I was able to understand those  
18 issues and take care of it.

19 Q Were there ever any groups, underwriting  
20 groups that were added to -- or underwriting  
21 companies that were added to underwriting groups that  
22 didn't submit proposals?

1       A    I mentioned one that I recalled was the  
2 Norwest Bank involvement, and I think Chase Manhattan  
3 Bank, and maybe Citicorp got included without a  
4 formal proposal because they were involved as tender  
5 option agents with regard to the particular bonds  
6 issues and would handle the remarketing of bonds that  
7 were tendered to them.

8           Those are the three that I remember.

9       Q    Do you know if Lasater & Company was ever  
10 involved in anything like that?

11      A    I don't recall while I was there, because I  
12 think -- I am almost certain when I started in  
13 September of 1983, they were already a part of the  
14 single family and the multifamily group, so I don't  
15 know what else they could have done. I mean, other  
16 than that meeting I was telling you about, that I  
17 attended where they were -- I guess you could call  
18 that a proposal.

19      Q    Were there any other bond offerings that  
20 Lasater & Company made proposals to become members of  
21 that they weren't included in?

22      A    Well, I can't remember when they went out

1   of business is my problem. See, because up until we  
2 became the finance authority, which is -- I don't  
3 remember -- whether we did anything but housing  
4 almost all the way through '85, so they were involved  
5 in all of those. And I don't remember how long after  
6 we solicited proposals for other kinds of financings,  
7 they were in business. They probably were not  
8 included in some, but I just can't say for  
9 certainty.

10       But at the same time, it was real normal.  
11 So we selected Goldman Sachs or Merrill Lynch or  
12 whatever, to do a particular kind of financing  
13 as senior. Lasater was a part of what we called our  
14 local group, and they normally were included in some  
15 role. It is possible that they didn't get included  
16 in the role that they wanted to be, which might have  
17 been senior manager or something.

18      Q    Do you have a recollection whether any of  
19 the local firms that were included in that group were  
20 ever shut out from an underwriting for any reason, or  
21 were they usually included if they applied for it?

22      A    They were usually included. I mean,

1 this -- from the time I got there in '83, through the  
2 list that you showed me, the three-page list earlier,  
3 I think, I believe it had the same local group  
4 throughout all that. I don't believe it changed.

5 Q Was the authority involved in issuing any  
6 private activity bonds while you were there?

7 A Yes.

8 Q How did those differ from the dealer types  
9 of underwritings that were going on, or issuances?

10 A Well, all housing bonds are private  
11 activity bonds. And the best description I can give  
12 you is that private activity bonds are ones which  
13 permit the proceeds of the bonds to be used by  
14 private individuals and not governments. So if you  
15 have a mortgage revenue bond and it is for the  
16 purpose of financing home loans for individuals, then  
17 those private individuals are accessing those funds  
18 and so the bonds are characterized as private  
19 activity bonds.

20 We issued multifamily housing bonds which  
21 are private activity bonds. And later, after -- I  
22 believe it was in '86, we issued some industrial

1 development revenue bonds that are private activity  
2 bonds, also. And those are the three fairly most  
3 common categories of private activity bonds.

4 Q Was the authority always authorized to  
5 issue industrial revenue bonds?

6 A No, that became part of our powers as a  
7 result of the 1985 Act, which created the Development  
8 Finance Authority.

9 Q Do you recall what the fee structures were  
10 for the different underwriters in the offerings. How  
11 they were paid, what percentages or --

12 A No. I really don't. I think they -- they  
13 might have changed from time to time. I just -- it  
14 is too hard to remember all of that.

15 MR. O'CALLAGHAN: Why don't we go off the  
16 record for a second.

17 (Discussion off the record.)

18 (Whereupon, at 12:55 p.m., the deposition  
19 was recessed, to be reconvened at 2:00 p.m. this same  
20 day.)  
21  
22



## AFTERNOON SESSION

(2:10 p.m.)

Whereupon,

S. WOOTEN EPES

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

## EXAMINATION (Continued)

BY MR. O'CALLAGHAN:

Q I would like to show you a two-page document. It does not have a Bates stamp on it. It was provided to the Committee -- it is on Stephens, Inc. letterhead, dated April 28, 1983, addressed to Charles Stout, and it is signed by Gene Wilbourn, vice president.

And I will have you take a look at that letter and read through it, and let me know when you have had a chance to finish it.

(Pause.)

The letter I just referred you to dated April 28, 1983, does that predate your appointment --

A Yes.

Q -- your hiring at AHDA?

A Yes, the day I started work was September

15 of 1983.

Q Who was your predecessor?

A When I took over there was a -- I should say acting director, and I believe the predecessor was the lady named at the bottom of this, cc on the bottom, Linda Trent.

Q Have you ever seen this letter before?

A No, never seen it.

Q I am going to direct your attention to the fifth paragraph of the letter.

It reads, "In the meantime, subsequent to our selection, the board decided without discussion to add to the underwriting group a firm which did not submit a proposal under the agency proposal procedures, which invited individual firm proposals.

It then continues "although it is certainly the agency's privilege to appoint any firm, we would invite you to investigate more carefully whether the added company meets the standards of capital, experience, sales capability, staff service and market support, which have been the preference of the board in all previous issues."



1           The next paragraph, which continues on the  
2 next page, reads "we are concerned that such actions  
3 may be an indication of an erosion of the  
4 independence of the board of directors, which if  
5 publicly perceived can only be received adversely in  
6 the market."

7           The concerns expressed in the letter I just  
8 read, were they ever relayed to you regarding any of  
9 the underwritings that were done by the agency?

10       A    No, not -- are you saying the concerns of  
11 this letter, communicated to me or were any similar  
12 concerns --

13       Q    First the concerns in the letter.

14       A    No, never.

15       Q    How about similar concerns?

16       A    Well, from time to time underwriters would  
17 take potshots at their competition, and I don't  
18 recall the whole string of concerns like these.  
19 Usually they were saying they were more capable than  
20 another firm and I should pick one over another; that  
21 they had more experience or could sell a particular  
22 type of bond better than another firm.

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1           The tone of this letter seems to be that  
2 this firm they are referring to is generally  
3 substandard. So that's why I am saying it is a  
4 little different than what I usually heard.

5       Q    While you were director, did you ever hear  
6 of any accusations that the independence of the board  
7 of directors was being eroded, in any way, shape or  
8 form?

9       A    No, I don't recall hearing that. I guess  
10 you need to ask Gene Wilbourn what he meant by all of  
11 that.

12       Q    But just generally, from your experience,  
13 you don't recall that ever being the case?

14       A    No.

15       Q    Were there any specific requirements for  
16 final closing of a bond issuance that you are aware  
17 of, any documentation need to be taken care of?

18       A    Yes, they were normally spelled out in the  
19 bond purchase agreement. And if they weren't spelled  
20 out in the bond purchase agreement, then they were  
21 normally, either verbally or in writing, put in the  
22 form of a closing memorandum, or a closing index,

1 that bond counsel would require.

2 Generally, the two players in a transaction  
3 that are interested in certain things being done as a  
4 condition of closing are the bond counsel because  
5 they sign an opinion stating that the bonds are  
6 valid, binding and enforceable and everything that  
7 needs to happen in order to make them valid, binding  
8 and enforceable has occurred; and the other party  
9 would be the underwriter wanting to make certain not  
10 only the bond counsel representation has been taken  
11 properly but there would be other things they might  
12 want to see additionally. And it would vary somewhat  
13 from deal to deal so it is not like you have a  
14 boilerplate list every time you close a bond issue.

15 Q Were you ever required to sign bond  
16 purchase agreements as president of the authority?

17 A I think I usually signed them. If not, it  
18 was the chairman. One or the other.

19 Q Was it ever both?

20 A Probably -- might have been, yes. It could  
21 have been the chairman and then -- I was secretary of  
22 the board of directors, so I would have attested to

1 the chairman's signature.

2 Q When did you become secretary of the  
3 board?

4 A It was part of the -- from the day I got  
5 hired. That was just the way it was structured in  
6 the statute.

7 Q Did you -- so you had a position on the  
8 board of directors?

9 A Yes, it was nonvoting.

10 Q Did you attend a board of directors meeting  
11 when a vote took place on which underwriting firms to  
12 hire?

13 A Yes, I did.

14 Q Did any members of the governor's staff  
15 attend those meetings?

16 A Not regularly. There might have been a few  
17 cases, a few instances, but right offhand I don't  
18 remember.

19 Q Were these public meetings or were those  
20 private meetings?

21 A Yes, they were all public meetings. The  
22 only purpose for which we could have a closed meeting

1 was to discuss personnel matters, in executive  
2 session. And once the authority established a  
3 guarantee program in which we guaranteed bonds of  
4 industrial borrowers. We were authorized to go into  
5 executive session to talk about their credit so that  
6 it wouldn't be distributed publicly, and there was a  
7 specific statutory limitation about that.

8 Q Did you have any other more specific duties  
9 as secretary?

10 A No. It was fairly much just being the  
11 signatory to attest to the chairman's signature, and  
12 my personal secretary or my staff secretary prepared  
13 the minutes of the board meetings. And I was  
14 responsible for getting those prepared and  
15 disseminated for the next board meeting.

16 Q Generally, how does one become a member of  
17 the ADFA board?

18 A It is a -- an appointment by the governor.  
19 The state has set up some requirements that  
20 limited -- and right now it's been so long I can't  
21 remember.

22 My recollection is that they were supposed

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1 to have a member from each Congressional district,  
2 and a member that was a farmer, and a member that was  
3 elderly. And in recent years, they have named the  
4 state treasurer as an ex officio member. The  
5 Department of Finance and Administration director is  
6 an ex officio. They are both voting ex officio  
7 members.

8 So there are some categories like that,  
9 but, other than that, the other board members are  
10 just subject to the governor's discretion.

11 Q Other requirements are made by the governor  
12 other than the ones you just mentioned?

13 A Yes.

14 Q Are there -- other than the regional  
15 requirements, are there any other requirements for  
16 board members?

17 A As I said, I believe there is an elderly  
18 member and an agricultural member. That's all I  
19 recall.

20 Q Between 1983 and 1986, did you participate  
21 in the appointment process for the board?

22 A I don't recall participating in it. In



1 1985, when the Housing Development Agency was -- what  
2 was it -- they were merged into or through --  
3 Financial Authority became their successor. The  
4 board composition was changed at that point. I don't  
5 recall having input with regard to who the new board  
6 members would be.

7 It is possible I had some input with regard  
8 to the members that were on the old board, and  
9 perhaps made some suggestions about keeping the old  
10 board on, or something like that. But other than  
11 that one point in time, I was not -- I was not  
12 consulted with regard to who the board members would  
13 be.

14 Q But you were consulted about information  
15 about members who had already served on the board?

16 A I don't know if I was consulted. I said I  
17 might have put forth some suggestions on my own. I  
18 don't believe I was consulted.

19 Q Well, this might help. It is a multipage  
20 documents Bates stamped DKS N 026505 through 509. It  
21 is a multipage document.

22 Let me know when you have had a chance to

---

1 look at it.

2 (Pause.)

3 A Okay.

4 Q Just for the record, the cover page is  
5 "Office of the Governor Memorandum," to Bill  
6 Clinton, dated April 22, 1985, from Bob/Susan,  
7 "subject: ADFA board appointments."

8 The first question is, have you ever seen  
9 this document before?

10 A I don't remember ever seeing it.

11 Q Have you seen the information that's  
12 contained on the last four pages in that form before?

13 A I don't remember seeing any of it before.

14 Q Okay. The text of the cover memo reads  
15 "attached you will find a list of all the AHDA board  
16 minutes, Wooten's comments on the old board  
17 members."

18 Then the four pages that follow have a list  
19 of names and addresses on the first two pages, and  
20 then there is a list of names and comments next to  
21 those on the last two pages.

22 Looking at this document, does that refresh



1 your recollection as to whether you were consulted by  
2 the governor's office about board members or possible  
3 appointments?

4 A It doesn't refresh my recollection, but it  
5 seems to mention that I had a conversation or two  
6 about some of the old board members. The references  
7 relate to, I think, two or three of the old board  
8 members. And it's reasonable to believe that, if  
9 asked questions about the old board, I gave my  
10 opinions about their level of activity on the old  
11 board.

12 Q Did you ever seek to have any input as to  
13 what individuals might be named to the board?

14 A As I said, I don't recall. It would have  
15 been normal for me to make conversation -- have a  
16 conversation with Bob Nash, and make comments about  
17 people that I had served with.

18 At that time, the concern was that the  
19 Finance Authority had been created as a very  
20 broad-based, much more active authority, and the  
21 emphasis was on that. We wanted to have a board of  
22 directors that would be representative of business

1 communities as well as just housing, and that we have  
2 board members who would be independent and well  
3 respected throughout the state.

4 So, it was a shift in emphasis from one  
5 type of agency to another. And during the  
6 legislative process that was an issue among  
7 legislators when the legislation was being proposed,  
8 that they wanted to see something like that also. So  
9 for a period of time around the creation of the  
10 finance authority, the composition of the board was a  
11 general topic. It wasn't as much specific names that  
12 we talked about, as much as it was that we needed to  
13 have real strong, independent people to be on that  
14 board.

15 Q Directing your attention to the second  
16 page, Bates stamped 26506, do you recognize any of  
17 the handwriting that appears on the page?

18 A Well, if I had to guess, I would say it was  
19 Bill Clinton's handwriting.

20 Q But you don't have a specific -- you can't  
21 identify it?

22 A As I say, I cannot positively identify it,

1 but it certainly resembles his handwriting.

2 Q You are familiar with his handwriting?

3 A Somewhat. I mean, it is fairly  
4 distinctive.

5 Q Okay. You mentioned earlier there was a  
6 desire to have strong, independent people named to  
7 the board once the agency became ADFA; is that right?

8 A Yes.

9 Q This is a question which is eliciting your  
10 opinion. Having been a member of the board, ex  
11 officio for a while and the president, with regard to  
12 the people that were named to the board, was it your  
13 opinion that they were strong, independent people  
14 that were named to it?

15 A It was. I thought it was a very good  
16 board.

17 Q Page 26508, take a look at that. Next to  
18 the comment for Margaret Davenport, "served since  
19 August '83, has missed several meetings because of  
20 demands at work. Wooten is concerned about ability  
21 to spend more time on board matters."

22 Do you remember expressing that concern?

1 A I don't remember it.

2 Q Did you ever have that concern with regard  
3 to Ms. Davenport's participation on board matters?

4 A As I say, I don't remember it, but if it is  
5 written down here I probably did. It's been too many  
6 years. I do recall that when she -- after she  
7 served, got appointed, and most of the time that I  
8 was there, she took a -- seemed to take a renewed  
9 interest because the focus of the activities got to  
10 be more of a banking type activity.

11 As I said, we had private sessions,  
12 executive sessions, where we talked about credits of  
13 businesses and things that were much more banking  
14 oriented, and I think she took more of an interest in  
15 that type of function once the scope of the agency  
16 expanded.

17 Q Other than the references made on the cover  
18 page of this document, do you have any other  
19 recollection of people from the governor's office  
20 seeking your counsel or advice as to whether people  
21 were appropriate board members?

22 A I really don't. I have some recollection

1 that most of the new people that were named to the  
2 board, I was never consulted about. Not most of  
3 them. I don't remember being consulted about any of  
4 the new members of the board, and had very limited  
5 knowledge, before they were actually announced, as to  
6 who they would be.

7 Q Okay. I would like to direct your  
8 attention to the second page of the document.  
9 Halfway down there is a name that says "Troy Burris,"  
10 slashed through that, and to the side of it, there is  
11 a notation "Jim Tombell," or "Jay Tombell."

12 Are you familiar with anyone by that name?  
13 Who is Jay Tombell?

14 A There was a Jim Tombell, so apparently you  
15 know who he is. He was an employee -- he was in the  
16 mortgage banking business, and he worked at First  
17 Commercial Bank for a while, and then he went to  
18 Simmons First National Bank, mortgage company. In  
19 each case he was head of the mortgage companies in  
20 both of those. And at this point in time, I am not  
21 sure which bank he worked for, but I think he was  
22 still at First Commercial in April of '85.

1 Q And did you work with him, as -- while he  
2 was a board member of ADFA?

3 A He never was a board member.

4 Q He wasn't?

5 A No. That's why I was kind of curious when  
6 I saw his name there. I had never seen that before.

7 Q So you didn't have any previous knowledge  
8 that he had been proposed as a board member?

9 A No, that's the first I knew about it.

10 Q With regard to any of the board members  
11 that served with you while you were at ADFA, were you  
12 aware whether any of those people had been  
13 recommended by Dan Lasater?

14 A No.

15 Q Were they recommended to the governor by  
16 Dan Lasater?

17 A I have no idea whether there were or there  
18 were not. I don't recall having any knowledge of who  
19 recommended any of these people.

20 Q Did anyone from Lasater & Company approach  
21 you with ideas for who they thought would be good  
22 board members?



1 A No. I don't recall it. Until I saw this I  
2 also don't recall Charlie Crow Stephens.

3 MR. FEUER: Does that document suggest to  
4 you that someone from Stephens did have input into  
5 this? Is that the conclusion you draw from that  
6 entry on page 26505?

7 THE WITNESS: It seems to say there are --  
8 it says "a list of possibilities from Charlie Crow  
9 Stevens." And flipping through here, I don't see a  
10 separate list, so I don't know what happened to that  
11 list. It doesn't seem to be here.

12 BY MR. O'CALLAGHAN:

13 Q You have no way of knowing other than what  
14 you just read?

15 A That's right. Typically, there was a  
16 person on the governor's staff who was in charge of  
17 appointments to boards and commissions, that pretty  
18 much rode herd over all of that. And I don't happen  
19 to remember who that was at the time, but I was not  
20 normally consulted.

21 And as I said, I don't -- I don't believe I  
22 had much advance notice before this board was

1 actually appointed. They had a lot of appointments  
2 to handle up there and sometimes they got behind.

3 Q Looking at the top of the first page, it is  
4 from Bob and Susan. Does that help refresh your  
5 recollection who was doing the appointments?

6 A Susan was Bob's assistant.

7 Q Okay. Do you know her last name?

8 A Smith was her last name, and it is now -- I  
9 can't remember her married name. She doesn't live in  
10 Arkansas anymore. I haven't seen her in a while.

11 Q Did you have any conversations with anyone  
12 at all from Lasater & Company with regard to  
13 appointments to the ADFA board?

14 A I don't recall having any. I just didn't  
15 talk to Michael Drake very often, and it's very  
16 unlikely that I had any such conversation, but I  
17 don't remember any.

18 Q Did Bob Nash tell you about any  
19 conversations he might have had with people at  
20 Lasater?

21 A I don't recall.

22 Q Did you ever have conversations with a



1 person by the name of Bob Moudy at Lasater & Company?

2 A No. Dan Moudy.

3 Q Is it Moudy?

4 A I don't remember. I remember meeting -- I  
5 knew who he was before I went there. I remember him  
6 attending a closing dinner once. And that was -- I  
7 believe that was the first time I realized he even  
8 worked there. And he had been a -- I had served on  
9 the constitutional convention, I was a delegate to  
10 the constitutional convention in '79 and '80, and he  
11 was also, from Benton, Arkansas, and had law practice  
12 down there. And he showed up from Lasater at that  
13 closing. And that's the first time I knew he worked  
14 there, and I don't know how long he stayed.

15 Q Were you ever contacted by anyone at the  
16 White House with regard to your tenure at ADFA and  
17 any associations with Lasater & Company?

18 MR. FEUER: Do we have a time period on  
19 that?

20 BY MR. O'CALLAGHAN:

21 Q Any time at all. If there is more than  
22 one, we can narrow it down.

1 A Let me think. I believe I had one  
2 conversation with -- or maybe two. What I recall is  
3 that I received a call from the press asking  
4 something about Lasater and ADFA and -- wanting to  
5 know how he got hired and things like that. And I  
6 told them basically what I told you, I wasn't there.  
7 And my recollection is that I called Bruce Lindsey to  
8 say that the press was calling to inquire about  
9 Lasater. And I think -- I think I missed him when I  
10 called and I left a message, and I believe he called  
11 me back. And that's all I seem to recall about it.

12 Q When did that take place?

13 A I don't know for certain. It's been a  
14 while, so if I had to guess, it had to be after  
15 January '93 because that's when they took office and  
16 this is '96, so sometime between '93 and now. And it  
17 hasn't been in the last year, so -- I don't know --  
18 between January '93 and last January. I just don't  
19 remember. It's been a while.

20 Q You don't recall when the press called you?

21 A No. As I say, it's been long enough so  
22 that I can't recall when it was. I am using my logic

1 to tell me it had to be after January '93 and I know  
2 it was not in the past calendar year, so it could  
3 have been '93, '94 probably. I don't remember.

4 Q Who was the press person that called you?

5 A I do not recall.

6 Q Do you recall the --

7 A I think it was someone out of state, but  
8 that's all I can say.

9 Q Do you know if it was newspaper,  
10 television, magazine?

11 A I doubt if it was television, because I  
12 usually -- I don't recall getting phone calls from  
13 television people. So it would have been print media  
14 of some type.

15 Q Where were you working at the time?

16 A I was working where I am now.

17 Q At the law firm?

18 A Yes.

19 Q And how long was the conversation with the  
20 news media person?

21 A I don't remember. I don't recall that it  
22 was a long conversation, because I didn't have a

1 whole lot to say.

2 Q And how did you come to call Bruce Lindsey?

3 A I called him because he was one of the few  
4 people I knew in the White House, and I thought that  
5 they needed to know that the press was digging into  
6 the connections between Dan Lasater and the  
7 President.

8 Q Did you ever have a conversation with him  
9 about this subject?

10 A "Him" who?

11 Q Mr. Lindsey.

12 A Yes, I believe he called me back to answer  
13 my call, and I told him what was going on. And  
14 that's all I recall.

15 Q Do you recall how long that conversation  
16 was?

17 A Not very long.

18 Q More than 10 minutes; less than 10 minutes;  
19 five minutes?

20 A I don't know.

21 Q Did anyone else participate in the call?

22 A I don't recall anyone else. I seem -- all

1 I recall was that he returned my call and I conveyed  
2 the message about the press call. And that was about  
3 it.

4 Q I would like to have you take a look at a  
5 document which bears Bates stamps S 012389, and S  
6 012390, appears to be copies of handwritten notes.  
7 The front page has clearly marked paper which says  
8 the White House on -- it is hard to read. This is  
9 the way they were produced.

10 After you have had a chance to look at it,  
11 I will direct your attention to specific portion  
12 where you can try to decipher what's written, what's  
13 referenced.

14 A Good handwriting, isn't it?  
15 (Pause.)

16 Q Do you recognize the handwriting that  
17 appears in this document?

18 A I do not.

19 Q Are you familiar with Bruce Lindsey's  
20 handwriting?

21 A I am not.

22 Q You are not, okay.

1 Do you recall what your phone number was at  
2 the time you talk to Mr. Lindsey?

3 A Same thing it is now, 501-376-9208.

4 Q I know it is very difficult to read this.

5 A Looks like that there, but I couldn't swear  
6 to it.

7 Q On the front page?

8 A Looks like a 92 and then the other numbers  
9 I can't see, on the left-hand side under what looks  
10 to be my name.

11 Q After looking through these notes, which I  
12 understand are difficult to read, has this helped  
13 refresh your recollection as to specifics of the  
14 conversation you had with Mr. Lindsey?

15 A The only thing that refreshes my  
16 recollection about it is that the person who called  
17 me is this Mark -- I am not sure if that's the right  
18 spelling -- Mike Hosenball, something like that, I  
19 believe that was the person that called me to ask me  
20 the questions about Lasater.

21 Q Was this the press person that you referred  
22 to?

1       A    I think so. That name -- I have heard that  
2 name, and then it appears over here on the left as  
3 if -- underneath that is Newsweek and maybe that's  
4 who he was with. I still can't remember that, and I  
5 am guessing actually, but I just -- I think that's  
6 probably.

7       MR. STRASSER: Do I take it you're telling  
8 us these are Lindsey's notes?

9       MR. O'CALLAGHAN: No. I am not making that  
10 representation. I am just asking.

11       THE WITNESS: You asked me if I recognized  
12 his handwriting.

13       MR. STRASSER: He told you no. And you  
14 have asked him if this refreshes his recollection as  
15 to the content of his conversation with Mr. Lindsey.

16       MR. O'CALLAGHAN: Correct.

17       MR. STRASSER: Okay, okay.

18       BY MR. O'CALLAGHAN:

19       Q    Are you familiar with the name Larry  
20 Nichols?

21       A    I wish I weren't. Yes, I am.

22       Q    On the first page of this document, it

1 appears to be the last line of the column, denoted  
2 page 3, appears to be a name that looks like Larry  
3 Nichols to me.

4       A    Yes, could be.

5       Q    Do you know if you had any discussions with  
6 Mr. Lindsey about Larry Nichols when you talked to  
7 him?

8       A    I don't know. I -- I could have. Larry  
9 Nichols has created a lot of problems for me in the  
10 past. He could have been stirring up this problem.  
11 I just don't know.

12       Q    On the left-hand corner in the first page,  
13 far corner after the first portion appears to be a  
14 portion that says ADFA, that's underlined. And then  
15 it appears -- looking at these notes -- once again, I  
16 realize it is difficult -- looks like it says  
17 "securities department bad" and then "sanctioned,"  
18 and then says "dealings by," and then some  
19 hard-to-read words, and then it says "Lasater."

20       Looking at that, does that refresh your  
21 recollection as to whether you had any conversations  
22 about any sanction that occurred at Lasater?



1       A    I believe that the person calling, as I  
2 said, was asking me about how Lasater got hired, and  
3 mentioned some state securities department  
4 complaints -- I don't remember exact sanctions or  
5 whatever -- that arose at some point during the  
6 period from '83 to '86. And asked me what I knew  
7 about them, and I didn't know anything about them. I  
8 think that's -- I think that was part of the inquiry  
9 from that person.

10       Q    Have you since learned of any sanctions or  
11 any action brought by a state securities department  
12 against Lasater & Company?

13       A    No.

14       Q    Were you aware at any time that a Roger  
15 Clinton was employed by Mr. Lasater?

16       A    No.

17       Q    That never came to your attention?

18       MR. STRASSER: Are you representing that it  
19 is true?

20       MR. O'CALLAGHAN: Yes, I can do that, yes.

21       THE WITNESS: I don't -- I might have -- I  
22 am trying to remember now.

1       At some time -- I don't know if I ever knew  
2 he worked for Lasater -- I knew that he was involved  
3 with him and that criminal charges against Lasater,  
4 it was rumored, resulted from some information Roger  
5 gave to the authorities. But I am not sure I ever  
6 knew he worked for Lasater or not. I don't know  
7 that.

8       BY MR. O'CALLAGHAN:

9       Q    You don't know if you ever heard that?

10       A    He didn't seem to work anywhere very long.

11       Q    Did you know him personally?

12       A    I met him a few times. I certainly  
13 wouldn't call myself an acquaintance or friend. I  
14 met him maybe once or twice, at the governor's  
15 mansion, or party or social event or something.

16       Q    Did you have any conversation with him with  
17 regard to his relationship with Dan Lasater?

18       A    No. I don't recall having any  
19 conversations with Roger other than hi, how are you.

20       Q    You said that you were aware that he was  
21 associated with criminal charges that were brought  
22 against Lasater, or might have been?

1 A Rumor.

2 MR. FEUER: I would point out at this point  
3 that criminal charges involving Mr. Lasater are not  
4 within the scope of the resolution unless they in  
5 some way relate to bond underwriting contracts  
6 between Lasater & Company and the ADFA, which is the  
7 only subject matter this Committee has been  
8 authorized to investigate.

9 MR. O'CALLAGHAN: That's my next follow-up  
10 question.

11 BY MR. O'CALLAGHAN:

12 Q So, with regard to what you heard about  
13 that, was that during your time as director of the  
14 agency?

15 A It might have been during my time. I can't  
16 recall when it was. But the charges to which I am  
17 referring had nothing to do with the agency or Dan  
18 Lasater's securities business. It was his own  
19 personal problems.

20 Q Would those problems have affected  
21 Lasater & Company's ability to do business with ADFA?

22 A The business closed. He couldn't operate

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1 it anymore, so --

2 Q When did you first learn that Mr. Lasater  
3 might have been involve in criminal activity?

4 MR. STRASSER: Why don't you explain to me  
5 what this has to do with the scope of the  
6 resolution?

7 MR. O'CALLAGHAN: The scope of the  
8 resolution is the business of Lasater & Company and  
9 people employed by them doing business with the  
10 agency.

11 MR. STRASSER: He just told you he had  
12 nothing to do with that. So now explain to me how it  
13 is connected to your resolution. Should we look at  
14 the exact words? It is underwriting contracts  
15 between Lasater & Company and ADFA, and Mr. Epes just  
16 told you -- the bond underwriting contracts between  
17 Arkansas Development Finance Authority and Lasater &  
18 Company, that's the scope of permissible inquiry.

19 Mr. Epes just told you there is no  
20 connection between Mr. Lasater's criminal charges and  
21 ADFA business, so do you want to explain to me the  
22 relevance of this inquiry?

1 MR. O'CALLAGHAN: The relevance is whether  
2 anyone involved with the function of the agency and  
3 the granting of the underwriting contract was aware  
4 that -- could have been aware that Mr. Lasater was  
5 involved in criminal conduct which could have had a  
6 direct bearing on his ability to do business with the  
7 authority, and the propriety of the authority doing  
8 business with the company.

9 MR. STRASSER: That's not the question you  
10 asked him, what you just asked. If you want to ask  
11 him that, go right ahead. You want to ask him if he  
12 was aware of it at the time when he could have made  
13 the decision whether Lasater got business, go right  
14 ahead.

15 BY MR. O'CALLAGHAN:

16 Q I was asking when you first became aware of  
17 it.

18 MR. STRASSER: No, no.

19 MR. O'CALLAGHAN: I don't see -- that lays  
20 a predicate foundation for his knowledge of when he  
21 found out about it and I will ask him when he was  
22 aware other people were aware of it. As a member of

1 the authority, it is relevant.

2 MR. STRASSER: Go ahead, ask your  
3 question.

4 THE WITNESS: I can't tell you the date.  
5 He was indicted at some point, and that's when I  
6 became aware of it.

7 BY MR. O'CALLAGHAN:

8 Q That was the first time?

9 A Yes.

10 Q Are you aware whether any members of the  
11 board became aware of any possible criminal activity  
12 involving Mr. Lasater previous to his indictment?

13 A I am not aware.

14 Q How about with regard to anyone in the  
15 governor's office?

16 A I am not aware of what anyone else knew.

17 Q Did there ever come a time when the  
18 authority decided not to engage in business with  
19 Lasater & Company, other than through the function of  
20 them -- the company ceasing to exist?

21 A That's what I recall happened. It's been  
22 so long, I don't know whether it was when the company



1 ceased to exist, or -- I believe even perhaps the  
2 company was sold, someone else took it over. And it  
3 was no longer Lasater & Company. It might have  
4 happened, I can't remember the sequence of events  
5 which terminated that relationship, I don't know.

6 Q Did you ever read any reports in and around  
7 February of 1985 that there was testimony given  
8 during the trial of a man named Sam Anderson, the  
9 testimony was given that Mr. Lasater was involved in  
10 using cocaine and was under investigation by a joint  
11 state/federal crime task force?

12 A I don't recall.

13 Q Was that ever a subject of discussion with  
14 any of the staff members of the authority or the  
15 board that you have heard of?

16 A I don't recall.

17 Q I would like to show you a one-page  
18 document, bears Bates stamp DKS N 01310. It appears  
19 to be a page from an appointment book dated December  
20 19, 1985, Thursday. Let me give you the one with the  
21 highlighted portion on it.

22 I will give you a chance to look at it --

1 MR. STRASSER: You want to talk to me about  
2 this.

3 THE WITNESS: Yes.

4 MR. STRASSER: He wants to speak to me.

5 MR. O'CALLAGHAN: Sure. Off the record.  
6 (Witness conferred with counsel.)

7 MR. O'CALLAGHAN: Back on the record.

8 BY MR. O'CALLAGHAN:

9 Q I just showed you a document, a one-page  
10 document, which is a -- it is a page out of Governor  
11 Clinton's appointment book from December 19, 1985 and  
12 then the entry marked 3:00 appointment with Wooten  
13 Epes, George Wright and Mary Davenport and " Nash."

14 First of all, have you seen this document  
15 before?

16 A No.

17 Q Do you recall having a meeting with the  
18 governor and the people listed in this document?

19 A I really don't. I could have had the  
20 meeting, but I just don't recall it.

21 Q Do you recall, in or around December of  
22 1985, meeting personally with the governor?



1 A No.

2 Q Could you estimate how many times you  
3 personally met with the governor?

4 MR. STRASSER: Between when and when?

5 MR. O'CALLAGHAN: '83 through '86.

6 MR. STRASSER: About something connected  
7 with ADFA?

8 MR. O'CALLAGHAN: Any time.

9 MR. STRASSER: Then I object to the  
10 relevance of the question.

11 MR. O'CALLAGHAN: I am trying to help him  
12 place in time when he met with the governor, and then  
13 from there, whether it was and ADFA meeting. I won't  
14 limit it if he doesn't have a specific recollection  
15 at the moment.

16 MR. STRASSER: You have a limited scope you  
17 can investigate.

18 MR. O'CALLAGHAN: I can inquire as to the  
19 meetings he had with Governor Clinton while he was  
20 director of ADFA.

21 MR. STRASSER: I don't think you can.

22 MR. O'CALLAGHAN: I will direct the witness

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1 to answer the question.

2 MR. STRASSER: You are not going to direct  
3 him to do anything.

4 MR. O'CALLAGHAN: If you have a strong  
5 objection to the question of how many times he  
6 personally met with Governor Clinton between 1983 and  
7 1986, and you want to take it to the Chairman, we can  
8 do that. We can bring him back up here for  
9 deposition if you want to sustain the proceeding for  
10 right now. If you want to, consult with your client  
11 as to whether that's a worthwhile objection you want  
12 to make.

13 MR. STRASSER: You can ask him the question  
14 how many times he met personally with Clinton between  
15 1983 and 1986. That particular question I won't  
16 object to.

17 THE WITNESS: I don't recall.

18 BY MR. O'CALLAGHAN:

19 Q Do you know if it was more than 10 times?

20 A I don't know.

21 Q Any idea whatsoever?

22 A It was not daily and it was not monthly.

1 Other than that, I can tell you.

2 Q Do you have a specific recollection of when  
3 you met with -- or whether you met with Mr. Clinton  
4 with George Wright and Mary Davenport?

5 A No. As I said, I just don't have any  
6 recollection of this. It could have happened or  
7 maybe it was canceled or whatever, I just don't  
8 know. I don't have any recollection of it. I'm  
9 sorry.

10 Q Would it be unusual for you to have a  
11 personal appointment with the governor; was this  
12 something that happened fairly frequently?

13 A It didn't happen very frequently, so --  
14 that's --

15 Q I will restrict it to the year 1985. Do  
16 you recall whether you had numerous meetings with  
17 Mr. Clinton?

18 A No. I seem -- I don't recall ever having  
19 numerous meetings with the governor. I mean, that's  
20 all I can say. I just have no recollection  
21 whatsoever on December 19, 1985, having a meeting  
22 with George Wright, Ms. Davenport, Bob Nash, and the

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1 governor. I just don't. Can't recall it. Sorry.  
2 It's only been 11 years.

3 Q I understand it has been a long period of  
4 time. I am just trying to help you --

5 A I'm sorry --

6 Q -- remember.

7 A -- can't bring it back.

8 Q Do you recall whether you met with him more  
9 than once during the year of 1985?

10 A Yes, I would have. I can recall a couple  
11 of times earlier in that year, during the legislative  
12 session when the ADFA legislation was coming up.

13 Q Do you remember -- does it help you  
14 remember whether or not you met him with any time  
15 near Christmas?

16 A No. I just -- I'm sorry, I am blank on all  
17 that. I just can't. It doesn't ring a bell.

18 Q Okay, thank you.

19 A It is not uncommon for meetings to get  
20 canceled, either. So I am not sure it happened.

21 Q Do you have any knowledge of whether any  
22 ADFA staff members maintained accounts at Lasater &

1 Company?

2 A No. I have no knowledge.

3 Q Whether or not any board members maintained  
4 securities accounts at Lasater & Company?

5 A No knowledge.

6 Q Did you maintain any securities accounts at  
7 Lasater & Company?

8 A No.

9 Q I would like to have you take a look at a  
10 multipage document, four-page document, which the  
11 front page reads "in the opinion of bond  
12 counsel/special tax counsel under existing laws,  
13 regulations and judicial decisions, interest on the  
14 bonds is exempt from present federal income taxes.  
15 In the opinion of bond counsel under existing laws,  
16 regulations, rulings and judicial decisions, interest  
17 on the bonds is exempt from income taxes of the state  
18 of Arkansas. New issue \$72,500,000 Arkansas  
19 Development Financial Authority variable rate demand  
20 revenue bonds (Higher Education Capital Asset  
21 Program) 1985 Series A."

22 And there is a highlighted portion I want

---

1 to ask you about, I believe it appears on the second  
2 page of your copy. The question I meant to ask you  
3 earlier, I want to get back to it.

4 Let me also give you this. This is another  
5 multipage document, the general text is over 73 pages  
6 and it has some attachments with it. It appears to  
7 be a prospectus for -- reads "re: Offering of bonds  
8 originally issued on December 30, 1985," says  
9 "\$72,500,000 Arkansas Development Finance Authority  
10 variable rate demand left new bonds" and again  
11 "(Higher Education Capital Asset Program) 1985  
12 Series A." I am not going to ask you anything about  
13 the contents, other than general questions.

14 MR. STRASSER: You just handed him  
15 something that is a hundred pages long, and I will  
16 let you go ahead and ask questions about it, but if  
17 you are asking him anything about anything it says in  
18 here, then I will insist that he read every word of  
19 it.

20 MR. O'CALLAGHAN: That's no problem.

21 BY MR. O'CALLAGHAN:

22 Q The first question I have with regard to



1 the first document I showed you, the four-page  
2 document, the highlighted portion of it, that's  
3 really about how the counsels were set up, special  
4 tax counsel and bond counsel. And in the last  
5 paragraph of the second page, it reads "In addition,  
6 certain matters will be passed upon for the authority  
7 by its counsel, the Rose Law Firm."

8 And I just wanted to know if that was a  
9 different kind of counsel that we haven't previously  
10 identified.

11 A Yes, I think -- I think you asked me once  
12 earlier, was it normal to have separate counsel for  
13 the authority, and I said, no, except in certain  
14 cases where we might have a pool of borrowers or a  
15 number of different transactions, which might need to  
16 be carried on into the future. And that's the  
17 situation here.

18 This is Higher Ed Capital Asset Program in  
19 which we had a pool of money which higher education  
20 institutions throughout the state could borrow from.  
21 And so, for a period of time -- I can't recall  
22 exactly whether it was two years or three years --

1 there was a loan program, in which we could make  
2 loans to higher ed institutions, and we felt like we  
3 needed our own counsel for that purpose, during that  
4 term.

5 Q Okay. And was this an underwriting that  
6 involved Lasater & Company? That's why I showed you  
7 the prospectus.

8 A Apparently it was.

9 Q They are listed on the prospectus; is that  
10 right?

11 A Yes.

12 MR. STRASSER: Excuse me. The link between  
13 the two of them, is -- how can you tell that this  
14 first document is connected to this? Are you telling  
15 us that you say it is?

16 MR. O'CALLAGHAN: I am not telling you  
17 anything. I can ask whether it is.

18 THE WITNESS: Apparently it is. It is the  
19 same caption.

20 BY MR. O'CALLAGHAN:

21 Q Do you have any reason to believe it is not  
22 the same?



1 A No, I think it's the same. We only did one  
2 higher ed capital asset program.

3 Q Was this also the offering you identified  
4 earlier that Mr. Drake approached you on?

5 A No. That was the \$175 million single  
6 family housing bond deal that was earlier in that  
7 year. This is December, I believe. Well, yes, okay,  
8 it was originally in December and then we reoffered  
9 it in 86.

10 Q With regard to hiring counsel for the  
11 authority, was that done by the board or was that  
12 done by the underwriters?

13 A I believe the board did it.

14 Q What criteria would be used for doing that?

15 A I don't remember.

16 Q Did you have one firm that the board  
17 usually used for that?

18 A No, we didn't because we did it very  
19 rarely. I only recall, while I was there, doing it  
20 may be one or two other times; I think maybe two  
21 other bond issues where we had a similar type  
22 situation where we had a loan pool, and we needed

1 counsel to help us close our loans, on a regular  
2 basis. So, it was unusual; it wasn't normally done.  
3 And I recall one other -- the other one I can recall,  
4 had a different counsel. I believe it was Williams &  
5 Anderson -- I'm sorry, it would have been Wright,  
6 Lindsey & Jennings. Then someone left --  
7 Mr. Williams left that firm and formed his own firm  
8 later.

9 Q Did underwriters make suggestions as to  
10 what counsel should be hired by the authority with  
11 regard to --

12 A No. Their main interest was that we needed  
13 to have nationally recognized bond counsel. And  
14 occasionally, if it were a complicated transaction,  
15 they might suggest that we needed separate special  
16 tax counsel. And they wouldn't normally say who it  
17 should be, but they would say this is a complicated  
18 deal, we don't know that your local counsel has tax  
19 expertise, you need to bring in a special tax  
20 counsel.

21 Q Thanks. Did the authority enter into  
22 remarketing agreements --

1       A    Yes. A remarketing agreement involves a  
2 different type of bond issue than a typical one where  
3 you just have a closing and the bonds are sold to the  
4 final owners, and they are put away and you don't  
5 have to remarket them again.

6           Occasionally bonds would be issued and held  
7 in short-term securities, and then remarketed a long  
8 time later, such that we would do an offering of a  
9 size and we would need a certain portion of it when  
10 we initially offered it. And then other portions of  
11 it were held in short-term securities. Such that  
12 whenever we needed those bonds later, we would  
13 remarket them and access them on a permanent basis,  
14 later.

15       Q    Excuse my ignorance. Can you explain how  
16 they were held in short-term securities, what that  
17 means?

18       A    Yes. Well, I need to do it in the way of  
19 an example, like a single family housing bond issue.

20           You could issue \$50 million today, 20  
21 million of it would be marketed long term, and we  
22 would access those funds to make loans out of. The

1 other 30 million would be marketed as short-term  
2 securities, maybe six months, such that six months  
3 later, we would have used our 20 million, and we  
4 would have another 30 that we would then remarket  
5 long term and use that money for home loans. And it  
6 was just a more efficient way of doing larger bond  
7 issues, instead of doing a bunch of little ones.

8           MR. FEUER: In other words, would the \$50  
9 million of bonds, in your example, have different  
10 maturities, and the shorter-term maturities would  
11 have to be remarketed when their maturity came up?

12       THE WITNESS: There would be more than one  
13 series of bonds issued at one time. One series would  
14 be marketed long and another series would be marked  
15 short term, subject to remarketing at a later date.  
16 It would be long term, and sometimes we would we  
17 would have more than one remarketing date such that,  
18 if six months later we still didn't need it, then  
19 maybe three months after that, there would be another  
20 remarketing date that we could access.

21       BY MR. O'CALLAGHAN:

22       Q    What percentage of the offerings involve a

1 remarketing --

2 A Actually, it was a technique that was  
3 developed later in my tenure there. And as I  
4 recall -- I left there in January of '89 -- I believe  
5 it was like the last couple of years I was there that  
6 we used that technique. I think early '87 was the  
7 first one we did.

8 Q Let me show you a multipage document, six  
9 pages, and it reads "remarketing agreement for  
10 \$23,500,000 Arkansas Development Finance Authority  
11 residential mortgage bonds (single family  
12 conventional mortgage loans) 1984 replacement Series  
13 A1," and it is dated June 25, 1986.

14 Could you take a look at that. I will ask  
15 you some general questions about it, as to whether  
16 that's an example of what we have just been talking  
17 about.

18 (Pause.)

19 A Okay.

20 Now, your question was?

21 Q My question is, is this the type of  
22 remarketing agreement that we were just talking

1 about?

2 A I don't think it is. I am sitting here  
3 trying to remember this transaction. My recollection  
4 is that this was a slightly different one in that it  
5 was a 1984 transaction that we did for about  
6 \$100,000,000, and we originated all of those bonds,  
7 but approximately 23.5, and we came back at some date  
8 later -- perhaps June of '86, I can't remember -- and  
9 did what is now commonly referred to as a current  
10 refunding of those bonds, for which we didn't ever  
11 originate mortgages because we had proceeds still  
12 sitting there.

13 And we took those proceeds and took them to  
14 refund -- actually we took those proceeds and loaned  
15 them out. At the same time we issued new bonds, took  
16 the proceeds from the new bonds and used them to  
17 retire the old bonds.

18 That sounds pretty simple, but under tax  
19 laws it was hard to get there at that point in time.  
20 And this was the first time we had ever done it. And  
21 I believe because it was kind of a new structure.  
22 For some reason we structured it as one that we call



1 a replacement series where we were actually replacing  
2 those funds for another bond, and we called this a  
3 remarketing agreement instead of a bond purchase  
4 agreement, I think. I believe that was the reason  
5 this one was called that. This was June '86.

6 The next fall we came along and started  
7 doing them the way I described to you so we could  
8 just kind of roll them out. The problem was, this  
9 \$100 million bond issue we didn't use it all, we came  
10 back the next year and decided we weren't going to do  
11 a hundred million long at once. We were going to  
12 issue the bonds and only do one portion so we were  
13 not exposed to market risk.

14 Once you go long with some mortgage funds,  
15 then the mortgage market can go the other way and you  
16 are sitting there holding, and that's what happened  
17 to this \$23 million. Our original issue was about 11  
18 percent, and by less than 12 months later,  
19 conventional mortgages were well below that, so we  
20 had a problem with that money.

21 So I think that's it. It was a technique  
22 we used to try to hold on to those funds. But the

1 end result was, when we did this remarketing, the  
2 mortgage rate on this money was able to be lowered.

3 Q Okay. With regard to the best you can  
4 remember, looking at page 6 of that page, are the  
5 underwriters listed there the underwriters that were  
6 involved in the initial offering?

7 A They would -- in the '84 offering, right.

8 Q Yes.

9 A Whether they were in this '86 one, I don't  
10 know. I just can't remember. .

11 Q Would this replacement series have provided  
12 the underwriters who were involved with it an  
13 opportunity to realize additional sales fees or  
14 commissions?

15 A Probably would have. I believe that's the  
16 way this one worked. As I say, this was a -- this  
17 was -- I don't think we did more than one like this.  
18 So, I'm -- it's been too long for me to tell you  
19 exactly, but reading the agreement, it looks as if  
20 that's the case. Somebody got paid because, over on  
21 the fifth page of the document, there's a fee for the  
22 remarketing agent.



1 Q Which is listed at 384,225. And Lasater &  
2 Company was involved in this?

3 A I don't remember. Their name is listed  
4 there, and that's all I can tell you.

5 Q Thanks. Do you know or have you ever heard  
6 that there was any money laundering associated with  
7 ADFA bond underwritings or offerings?

8 A You have been -- have you been talking to  
9 Mr. Nichols? I have heard allegations Mr. Nichols  
10 made about that.

11 Q What was the substance of the allegations  
12 that you heard?

13 A There is no substance to them.

14 Q What were the allegations?

15 MR. STRASSER: Would you like to explain  
16 how this is relevant?

17 MR. O'CALLAGHAN: This is relevant as to  
18 whether or not with regard to any bond underwriting  
19 offerings, or bond underwritings -- excuse me -- and  
20 offerings done by the authority and whether Lasater &  
21 Company was involved with any potential or, you know,  
22 possible money laundering associated with those.

1 THE WITNESS: No, the allegation is totally  
2 preposterous; suggestions. If you think there is any  
3 possibility of it, then you need to talk to our  
4 accountants who audited our financials every year.

5 BY MR. O'CALLAGHAN:

6 Q I am going to show you a one-page document,  
7 no Bates stamp, bears number 24, and I just want you  
8 to take a look at it. And I am going to ask you  
9 specifically whether you can confirm or deny  
10 information contained in the document.

11 MR. FEUER: Where did this come from?

12 MR. O'CALLAGHAN: This is from an RTC  
13 production.

14 (Witness conferred with counsel.)

15 BY MR. O'CALLAGHAN:

16 Q I think you've probably already anticipated  
17 one of my questions and maybe I can help expedite the  
18 process here.

19 This document refers to a July 12, 1993  
20 article in The Nation magazine, and in here, it says  
21 "a former propagandist for the Contras, Larry  
22 Nichols, was hired as the marketing director of the

1 Arkansas Development Finance Authority." The article  
2 states that the "ADFA's first loan in 1983 was to POM  
3 Inc. a company owned by Seth Ward."

4 And then it reads Lasater & Company was to  
5 have underwritten the bond issue, and then it says  
6 "Ward's son-in-law, Web Hubbell, is reported to have  
7 represented POM \$2,750,000 loan from ADFA."

8 First question, was Larry Nichols ever  
9 hired as a marketing director to ADFA?

10 A He was hired -- I don't believe that was  
11 his title, but he did some -- he was hired to do some  
12 marketing. He worked there for four months. At the  
13 time he was hired, he was not known by me to be a  
14 propagandist for the Contras.

15 Q Okay. Did ADFA ever make a loan to POM  
16 Inc.?

17 A We didn't make a loan. We issued bonds  
18 which funded a loan which First Tennessee Bank made.  
19 And First Tennessee Bank, as I recall, bought all of  
20 the bonds, or they put up a letter of credit for the  
21 bonds; I am not sure which.

22 At any rate, they were on the hook for that

1 loan. It is basically what you call conduit  
2 financing. ADFA had no risk, advanced no moneys.  
3 They just put their name on the bonds.

4 Q Did Lasater & Company have anything to do  
5 with the underwriting of that bond issue?

6 A Not that I know of. As I say, I am almost  
7 certain that First Tennessee Bank did the  
8 transaction, you know. It's been many years, and I  
9 could be wrong, but I don't believe that they did. I  
10 might be wrong.

11 Q Thanks. Do you have any knowledge of any  
12 shell corporations that were set up to purchase bonds  
13 that were underwritten by Lasater & Company?

14 A No.

15 Q This is just some more general questions  
16 which I probably should have asked you earlier. With  
17 regard to the granting of the underwriting contracts  
18 to different underwriters, with regard to the AHDA  
19 and the ADFA bond offerings that you were involved  
20 with when you were there, were contracts based on  
21 different rates that underwriters thought they could  
22 get for the bonds, or what they would be able to do

1 the underwriting for? If you could explain how that  
2 was set up.

3 A Yes. I will summarize it real briefly. I  
4 mean, I will skip a lot, but --

5 Q If you need to get specific, I will follow  
6 up.

7 A -- I will try to generalize. The process  
8 was -- I kind of went through this earlier when I  
9 talked about the meeting I had with the Lasater folks  
10 who were trying to sidetrack the financing. Normally  
11 the board would -- this particular single family  
12 housing, the board would decide they wanted to do a  
13 single family housing financing; they would pass a  
14 resolution.

15 After that date, the bond counsel would  
16 begin generating bond documents. Underwriters would  
17 start doing a financial analysis of a potential deal,  
18 looking at various bond structures and maturities and  
19 rates, and trying to come in at perhaps where a  
20 mortgage rate might be to show the authority what  
21 would happen if they were to issue bonds that day and  
22 would that put them in the ballpark where they could

---

1 then move forward and actually do a financing.

2 And that would take, you know, a few weeks  
3 to get that preliminary process done. And the  
4 underwriters's counsel would put together an offering  
5 document or an official statement that summarized the  
6 transaction. And we would get that in decent shape.

7 And then, if everything looked okay, in  
8 terms of the way it was going to work, and we got a  
9 rating agency to look at the transactions, that it  
10 looked like it was okay from a rating standpoint,  
11 then the underwriters, the senior manager would  
12 open -- what they call an order period, for an  
13 initial pricing of the bonds.

14 What that meant was, they would then take  
15 these preliminary -- a preliminary copy of this  
16 offering statement, and circulate a preliminary  
17 official statement to prospective buyers, and they  
18 would take orders. And based upon orders they  
19 received during that order period, they would then be  
20 able to tell what the market was doing in terms of  
21 rates. And they would agree then to buy the bonds,  
22 to enter into a contract to buy the bonds at a



1 particular rate.

2 Q Is this after they were already appointed  
3 as underwriters?

4 A Yes, this is almost at the end of the  
5 transaction.

6 Q Okay.

7 A Once that contract is signed, then the deal  
8 is bound. And there's usually about a two-week  
9 period during which final documentation is prepared,  
10 and there is actually a closing. And they deliver  
11 the money and the issuer delivers the bonds. So most  
12 of the work is done by the time the pricing and the  
13 orders are taken. But that then gives them some type  
14 of assurance that they have orders for most of the  
15 bonds.

16 And they know roughly what -- not roughly,  
17 they know almost precisely what the rates will be on  
18 those bonds and so that's the time at which they make  
19 an offer, and the issuer accepts that offer to sell  
20 the bonds to them.

21 Q So, generally would you say the rates and  
22 the pricing is done before the underwriters are hired

---

1 by the authority, or done afterwards --

2 A Done afterwards, way afterwards.

3 Q I misspoke. With regard to making a  
4 determination as to which firms to take on as  
5 underwriters, was the authority more looking at the  
6 distribution and the resources that the firms had  
7 versus their ability to deliver a certain rate?

8 A Well, they kind of go hand in hand. If you  
9 can access a wider market, then you are more likely  
10 to be able to hit a good rate. If you are captive to  
11 one little piece of the market or another piece, from  
12 time to time, different parts of the market are  
13 interested in buying or not interested in buying.  
14 And if you have access to a broad market, then, even  
15 if there are parts of it that are in or out of the  
16 market or demanding higher or lower rates, you can  
17 generally, with a reasonable size bond issue, you can  
18 usually get a reasonable size rate.

19 And that is the rationale for not letting  
20 just one underwriter handle your transaction, because  
21 some firms are better at selling retail, and some are  
22 better at selling institutions, and some access



1 different retail than other. And so the better the  
2 mix of all of your underwriters, then the better the  
3 chances are, on an ongoing basis, that whenever you  
4 do issues time and again, that you will be hitting a  
5 broad market, and you will get a good pricing.

6 Q And with regard to the co-underwriters, and  
7 specifically the local firms, was the focus on those  
8 firms and their ability to distribute within the  
9 state or was it --

10 A Mainly in the state. We've got our  
11 national firms involved to do outside of the state,  
12 and we were mainly interested in -- mainly interested  
13 in the state; not to mention, some of them didn't  
14 sell in other parts, too. But generally if they were  
15 located there, they would do some selling in the  
16 state.

17 Q Generally they were more involved with just  
18 the distribution rather than structuring the deals  
19 and putting all the documentation together; is that  
20 right?

21 A Yes, mostly.

22 MR. O'CALLAGHAN: Why don't we take a quick

1 break here, if that's okay.

2 (Recess.)

3 MR. O'CALLAGHAN: Back on the record.

4 BY MR. O'CALLAGHAN:

5 Q Mr. Epes, did you have any responsibilities  
6 or duties relating to providing for the physical  
7 space for the agents?

8 A Somewhat. The state has an agency called  
9 building services that actually locates rental space  
10 for state agencies. And so in my role, I just  
11 communicate to state building services when I feel  
12 like we had a need for office space and explain to  
13 them what it is we need, and then they go out and  
14 locate various places that maybe are available. And  
15 usually it is an ongoing process, in which we narrow  
16 down, together sometimes, sometimes they just  
17 determine what is there, and tell you that's your  
18 space.

19 At some point, in -- I guess it was 1984,  
20 late '83 or early '84, we went through that process.

21 Q And what triggered your entering that  
22 process?

1       A    We were getting crowded, and also, the  
2 space that we had was split up, the building was  
3 Ushaped and we occupied two sides of the U, and were  
4 not enjoined in the middle. There was just a hallway  
5 separating us by probably 50, 75 yards of space. We  
6 needed to be in one contiguous area and also we  
7 needed more space.

8       Q    And in between, was it just an empty  
9 hallway?

10      A    It was a hallway with other offices  
11 between, down the side of that hallway, so -- and  
12 those offices were already occupied. So there wasn't  
13 any way we could do that. And we tried to move  
14 within the same building, but another state agency  
15 occupied a large part of that building, and there  
16 wasn't any room within the building so we had to go  
17 somewhere.

18      Q    And where was that building located?

19      A    At 7th and Main Streets.

20      Q    Do you remember what number or the name of  
21 the building was?

22      A    The name of it was Donaghey, the Donaghey

---

1    Building.

2       Q    When it became apparent that the agency  
3 needed more space, what was the first thing you did  
4 with regard to securing more space?

5       A    We contacted the state building services  
6 department.

7       Q    Who did you contact over there?

8       A    I don't recall. I had a deputy -- C.E.  
9 Anderson at the time -- that handled most of it.  
10 When I came there in September, he had begun -- I  
11 don't know if he had talked to building services, but  
12 he was interested in getting the office moved; I will  
13 put it that way.

14            So after I was there for several months and  
15 getting my feet on the ground, we initiated the  
16 process.

17      Q    You were able to focus in on securing more  
18 space for the agency?

19      A    He fairly well took charge of the project  
20 and made most of the contacts. So I don't recall  
21 whether I might have made a first call or not, but I  
22 was not in regular contact with building services.

1 He dealt with the people over there fairly regularly  
2 for a short period of time, until we ended up being  
3 located in the Madison Guaranty building.

4 Q How long did it take for the whole process,  
5 would you say?

6 A Probably three months, something like that,  
7 would be my guess. It's been a long time. And then  
8 once we determined that that's where we were moving,  
9 there was a construction period where they built out  
10 our space for us. It was an old warehouse that had  
11 been converted so it was raw space and we were able  
12 to put up the walls and the offices in an arrangement  
13 that was best for us.

14 Q How long did that process take,  
15 construction?

16 A I don't know. The construction took  
17 probably two or three months longer. But at that  
18 point in time, what I was saying was, the period of  
19 time between when we contacted building services and  
20 ended up settling on that location, I think it was  
21 probably around three months, something like that.

22 Q Maybe five to six months total for the

1 whole process?

2 A Probably.

3 Q And who did -- of course, it is almost to  
4 the extent of your knowledge -- who did Mr. Anderson  
5 deal with in building services?

6 A The principal person was a person named  
7 Helen Vowel, I believe was her name. Her name  
8 changed at some point during her tenure. It was  
9 either -- Helen Herr at one point and it was Vowel at  
10 another point. There was an architect over there we  
11 consulted with to kind of do our drawings and our  
12 space, and his name was Glen something. And those  
13 are the only two names I recall. There may have  
14 been -- he might have dealt with some other people.

15 Q How about, did he have any dealings with  
16 anyone by the name of Paul Mallard?

17 A Paul was director of that department. I  
18 don't know. I can't say whether he had direct  
19 contact with Mallard or not.

20 Q So, was Helen Vowel the lead person for the  
21 building services on this project?

22 A I think so. I think -- her job was kind



1 of -- I don't know what her real title was, but she  
2 performed the function like a leasing agent, that --  
3 she knew what was out there, and talked with the  
4 agencies, and kind of would match up needs to space.

5 Q Did any other agencies assist in this  
6 process, or was it --

7 A That was it.

8 Q Did there come a point where Ms. Vowel  
9 identified a certain number of spaces that were  
10 potential sites for the agency?

11 A Yes. We looked at -- we look at a few  
12 sites. As I recall, what happened was she came up  
13 with a group of options and Mr. Anderson set up a  
14 time for me and him, and I believe somebody else in  
15 the agency -- maybe our finance director, I don't  
16 remember -- we went on a tour of several spaces.

17 And I can't -- I can only remember two of  
18 them. One was in the old Blue Cross Building, I  
19 believe, and the other was an old Federal Reserve  
20 Building or some type of banking establishment, that  
21 was full of -- the hazardous product.

22 MR. STRASSER: Asbestos.

1 THE WITNESS: Asbestos, that was it.

2 It was terrible space, had one big area  
3 with no windows whatsoever. It was really bad. I  
4 don't remember, but none of them really were very  
5 good spaces.

6 And Mr. Anderson had located -- I don't  
7 know if he did it independently or what, but there  
8 was a possible new construction site out of downtown  
9 about two or three miles that he, for some reason,  
10 liked and thought would be a good place for us.

11 BY MR. O'CALLAGHAN:

12 Q You inspected that as well?

13 A Well, we drove by the empty lot. I knew  
14 exactly where it was. As I say, it was three miles  
15 out of downtown. I wanted to keep us somewhere close  
16 to the downtown area.

17 Q I would like to show you a document that's  
18 dated September 29, 1983, on Greenbelt Properties  
19 Incorporated stationery, and the Bates is DKS  
20 016537. I would like to have you take a look at  
21 that.

22 (Pause.)



1 A Okay.

2 Q Do you know, did the agency ever consider  
3 moving to a location by the name of LaSalle Place?

4 A I don't know. I don't know where that is.

5 Q Are you familiar with anyone by the name of  
6 Mary Sue or Mary Lee Jacobs?

7 A Mary Sue Jacobs now works for First  
8 Commercial Bank. She is like an investment -- she is  
9 fairly senior in their investment division, but  
10 that's what I am saying, it doesn't really tell me.  
11 So I don't know. I can't say where that is.

12 Q This letter is dated September 29, 1983.

13 A Yes, and I would have been there less than  
14 two weeks at that point. Not to say it wasn't still  
15 on the market months later when we were looking and  
16 we could have looked at that. I don't remember.  
17 Whatever LaSalle Place is, apparently just changed  
18 names or -- I just don't know where it is. I don't  
19 know. It doesn't ring a bell.

20 Q Are you familiar with Greenbelt Properties  
21 Incorporated?

22 A No. I am not sure what that is, either. I

1 know Mary Sue Jacobs is at the bank and has been  
2 there for years, so that doesn't help, either.

3 Q What bank was she with?

4 A First Commercial.

5 Q I have a document, Bates stamped DKS  
6 016875 and 016876. I would like to direct your  
7 attention to the first page, starting "at the time  
8 AHDA considered moving to the Madison building other  
9 quotes were received as follows," there is a list of  
10 properties with quotes.

11 You could take a look at that, and I don't  
12 know if that refreshes your recollection whether or  
13 not you received quotes on those buildings.

14 (Pause.)

15 It continues on the second page.

16 A Okay.

17 You want me to go down the list?

18 Q This list may be more comprehensive than  
19 your memory.

20 A Yes.

21 Q Could you identify which ones --

22 A I can identify most of these -- I know most

1 of these, where most of these buildings are, unlike  
2 LaSalle Place which I don't recall. I don't remember  
3 looking at very many of these. As I said, I remember  
4 looking at the Blue Cross building.

5 Continental Building, several years later  
6 we ended up there and that's where their office is  
7 today, but it had been renovated when we moved. And  
8 I believe at this point in time it was not renovated  
9 and it was not very good space.

10 The Spring Building is an old building  
11 which we could not have gotten on one floor, I don't  
12 believe. That was -- I remember looking at one or  
13 two places where we had -- we just couldn't get all  
14 of our space in one area, was the real problem. The  
15 Spring and the Pyramid buildings, I would think would  
16 be in that case.

17 And then over here, G, H, Executive  
18 Building, Evergreen Place, and then I, Plaza West,  
19 those are all about five miles west of downtown.  
20 Spring Plaza Building, I am not sure where that was,  
21 but it was 14.50 a square foot; that was too high.  
22 University Tower is about in the same location as the

---

1 others, about five miles out of town.

2 Commercial National Bank Building, I  
3 believe we looked at it and it was -- the space  
4 wouldn't work. We couldn't get our people in one  
5 area. The People's S&L Building, that's the one I  
6 was saying was the bad one. Tower Building, again,  
7 it was higher price. I don't believe they offered us  
8 that one.

9 Heritage Center we looked at and liked, but  
10 we couldn't get ourselves in one -- they didn't have  
11 a big enough block of space for us in one place, I  
12 don't believe.

13 City Center, I don't remember. City Center  
14 Building, I can't place what's there at that corner.  
15 I just can't remember it. And The Gazette Building,  
16 I don't remember, either. At that time they were in  
17 business. I don't -- I didn't realize they had as  
18 much space as we needed.

19 Q Okay, thanks.

20 A That's what I recall.

21 Q Did there come a time when you narrowed a  
22 certain number of properties as potential sites for

1 the agency to move to?

2 A I don't remember, as I say, as you could  
3 tell from me going down that list, there just weren't  
4 that many options. And I don't recall exactly what  
5 the chain of events were. I just seem to recall that  
6 the Madison building was the building -- the building  
7 that building services said was suitable for our  
8 needs, and was at a price that was competitive, and  
9 that's where they wanted us to move.

10 Q When was that recommendation made?

11 A I don't remember. It was -- several weeks  
12 into the process is all I can guess.

13 Q Okay. I show you document Bates stamped  
14 DKSX 016527. It is a one-page document on Arkansas  
15 Housing Development Agency letterhead dated, March 5,  
16 1984. And it is addressed to Ms. Helen Vowel, state  
17 building services and signed -- signed Wooten Epes,  
18 executive director.

19 Take a look at that, and after you have had  
20 a chance to review it, please tell me.

21 A Hurts my eyes.

22 Q The copy is not great. I apologize.

1 That's the way it was produced.

2 (Pause.)

3 A I have seen a better copy of it before.

4 Q This letter dated March 5, 1984, have you  
5 seen it before?

6 A I think so, yes.

7 Q Is that your signature that appears on the  
8 bottom of the page?

9 A No.

10 Q Whose signature is that?

11 A I don't know. But it is not mine.

12 But what probably happened was -- I am not  
13 saying I don't remember this letter being prepared,  
14 and I don't remember it being sent. I believe that  
15 is Mr. Anderson's signature of my name on the page,  
16 and I also believe that I approved the letter going  
17 out. So I am not saying somebody --

18 Q So you remember the letter?

19 A I remember a letter going out. It was -- I  
20 really couldn't -- as time went on, I really wasn't  
21 sure what the contents of it were, but I just recall  
22 that there was a letter that was sent out. I believe



1 he probably drafted it, and I approved it. And  
2 either I was out of the office or something when it  
3 was prepared, and he signed my name and sent it.

4 And I just recall that we sent a letter  
5 saying that we didn't want to move in the Madison  
6 Guaranty Building. And I thought it said -- I  
7 thought it went to the point of the fact that the  
8 location was not in a part of town that people on our  
9 staff felt secure. I remember that being a complaint  
10 that a number of ladies in the office had about it,  
11 and I just forgot that -- what exactly the letter  
12 said. But that was --

13 Q Was there another letter you might have  
14 sent that addressed that issue?

15 A I don't know that it was -- maybe it was  
16 addressed verbally, in some other manner. I just  
17 remember that being a concern.

18 Q The first sentence of the letter reads  
19 "AHDA has decided to reject a proposal for Madison  
20 Guaranty to provide office space at 1501 Main  
21 Street." This letter is dated March 5, 1984. Was  
22 this sent after the state building services told you

1 that they thought the Madison space was most  
2 appropriate?

3 A I believe that's the case. I mean, that  
4 sounds logical that they would have done that, and  
5 then this -- Mr. Anderson would have prepared this  
6 letter.

7 Q Just with regard to what your memory is of  
8 what other concerns might have been for the agency  
9 rejecting the Madison proposal at the time.

10 A Yes, the major concern I recall was the  
11 fact that there were a number of ladies that felt  
12 insecure in that part of town, walking to their cars,  
13 perhaps, working late. That was the major thing,  
14 that I recall today, at that time.

15 Q After looking at this letter, does that  
16 refresh your recollection as to other concerns you  
17 might have had?

18 A Yes. I am not sure these were actually my  
19 concerns. As I say, I let Mr. Anderson handle most  
20 of it and I pretty much let him call the shots. And  
21 I think what happened was he drafted a letter for me  
22 to sign, which was in line with what his thinking was



1 about our space needs.

2 Q But was the ultimate decision whether or  
3 not to accept or reject the proposal yours?

4 A I don't think so.

5 Q Whose decision was that?

6 A Building services.

7 Q Building services?

8 A Yes, I don't think we had any ability to  
9 determine where we wanted to go without having their  
10 concurrence.

11 Q This letter in the third paragraph  
12 addresses costs associated with the Madison Guaranty  
13 space, and some other concerns. To the best you can  
14 read that, does that refresh your recollection as to  
15 whether there were price concerns about moving into  
16 the Madison space?

17 A Yes, I just don't remember it. I mean I  
18 see what's here, but I don't -- I just don't recall  
19 exactly what -- what they were, other than that  
20 security problem. I just didn't remember this part  
21 of it.

22 Q Okay. After this letter was sent out on

1 March 5, 1984, did you get any response from state  
2 building services with regard to your rejection of  
3 the proposal by Madison Guaranty to provide office  
4 space?

5 A I don't recall what the response was or how  
6 we got it, but the ultimate result was we moved in  
7 there, so we got some kind of response at some  
8 point. I just don't remember.

9 Q Do you remember whether it was written or  
10 oral?

11 A I don't recall.

12 Q You were basically told the agency would be  
13 required to move into Madison Guaranty space by  
14 building services?

15 A I believe that was conveyed to me by  
16 Mr. Anderson. I don't know that I got a response  
17 myself. I just don't remember. It's been too many  
18 years.

19 Q Did you have any reaction to that? Did you  
20 have any reactions?

21 A Yes. As I said, my recollection was that I  
22 was more concerned about trying to address the

1 concerns of people on my staff, more so than maybe  
2 Mr. Anderson worrying about whether the utility bill  
3 was too high. That was speculative, actually, and I  
4 was -- didn't want my staff members to think that I  
5 didn't care about their concerns. I was -- I wanted  
6 to try to address that.

7 Q How did you try to address that?

8 A Well, the chairman of the department, Mort  
9 Hardwick at the time, was from the same town as  
10 Mr. Anderson, so somehow they had been talking about  
11 it. And Mr. Hardwick came to me and asked me what I  
12 felt about it, and I told him -- told him what my  
13 concerns were. And he said well, do we need to go  
14 talk to the governor, and I said well, I feel like I  
15 would like to do that just so my staff will know that  
16 I've pursued all the avenues that I can pursue.

17 See, there was a meeting between the  
18 governor and me and Mr. Hartwicke. There might have  
19 been someone else in the room; there usually was. I  
20 just don't remember who it was. And it was a fairly  
21 brief meeting and we just -- he and I, Mr. Hartwicke  
22 and I -- both expressed our concerns. And my

1 recollection was, that the chief concern was this  
2 security problem, or at least perceived security  
3 problem, that people in the office had.

4 Q What was the governor's reaction?

5 A He felt like those problems could be  
6 addressed, and he felt like the state needed to try  
7 to have a presence in this part of town because there  
8 was an ongoing effort to revitalize and redevelop  
9 that part of Main Street in Little Rock. It was only  
10 a few blocks from the governor's mansion, and it was  
11 kind of a part of town that needed redeveloping, and  
12 he felt that this might help that process.

13 Q Did he recommend you move into the Madison  
14 building regardless of your concerns?

15 A I don't recall that he recommended it. I  
16 think what he said was that he didn't think it was a  
17 bad idea, and that he wasn't going to overrule the  
18 director of building services.

19 Q That was Paul Mallard?

20 A Right.

21 Q Did he have any conversations with  
22 Mr. Mallard concerning this issue?

1 A I don't know. I can't say.

2 Q Did he mention any need to support the bank  
3 in any way, Madison Guaranty?

4 A No.

5 Q Did Jim McDougal's name come up during the  
6 meeting?

7 A I don't remember.

8 Q Did Susan McDougal's name come up during  
9 the meeting?

10 A I don't recall.

11 Q Did you have any conversations with either  
12 of the McDougals with regard to the leasing?

13 A Yes, at some point Mrs. McDougal contacted  
14 me to, I guess, sell me on the idea or whatever. And  
15 I more or less told her that Mr. Anderson was  
16 handling most of that, and I was going to take his  
17 recommendation, as I recall.

18 Q Are you aware whether the governor had any  
19 conversation with either of the McDougals with  
20 respect to the leasing with AHDA?

21 A I have no idea.

22 Q Have you ever been told that happened?

1 A I don't believe so. I don't remember being  
2 told, I will put it that way.

3 Q Ms. McDougal didn't mention it during the  
4 conversation?

5 A No.

6 Q Do you know if Mrs. Clinton had any  
7 conversations on subject with regard to leasing the  
8 space to AHDA?

9 A I can't remember anything about her being  
10 involved in it, no.

11 Q Was she present during the meeting with the  
12 governor?

13 A No.

14 Q After your meeting with the governor, what  
15 was the next thing that happened with regard to the  
16 process?

17 A I don't remember. I just recall that we  
18 ended up moving down there. And during the spring  
19 months, they were doing work. I remember walking  
20 down there a couple of times and checking the  
21 progress of the work.

22 At some point we signed the lease, and --



1 Q Did you sign the lease?

2 A I think I did. I am not sure. Building  
3 services could have signed it. I am not sure whether  
4 they did or not. I can't remember who did that.

5 Q Do you have any recollection whether you  
6 earlier instructed anyone to negotiate a lease with  
7 another property?

8 A You say earlier or later?

9 Q Earlier than March of '84.

10 A No, I don't.

11 Q Let me show you this.

12 A Yes, let me see that.

13 Q The document is Bates stamped DKS N 016566.  
14 It is a one-page document on Arkansas Housing  
15 Development Agency stationery, dated October 31,  
16 1983 --

17 A That does appear to be my signature.

18 Q Let me finish identifying it. It is a  
19 letter addressed to Mr. Carl Brooks, state building  
20 services, and it is signed Wooten Epes.

21 It says "Wooten." You say that's your  
22 signature that appears there?

1 A Yes.

2 MR. O'CALLAGHAN: Counsel, have you had a  
3 chance to review it?

4 MR. STRASSER: No.

5 MR. O'CALLAGHAN: Let me know when you are  
6 finished and I will ask some questions.

7 (Pause.)

8 MR. STRASSER: Okay.

9 BY MR. O'CALLAGHAN:

10 Q "After reviewing the office space which  
11 your agency has surveyed, the AHDA asks that you  
12 negotiate with Bector Phillips Moore to obtain a  
13 lease from the owner of the property located 1320  
14 Brookwood."

15 I guess the pending question was whether  
16 you authorized negotiation of a lease of another  
17 property previous to March -- is this -- does this  
18 letter refresh your recollection?

19 A Yes. I mean, I wouldn't say I  
20 authorized -- I don't know. Yes, you could word it  
21 however you want, but this is the same address  
22 apparently that was in the other letter which



1 referred to Brookwood Drive.

2 Q In the March 5 letter?

3 A Yes, the first line of the second paragraph  
4 refers to Brookwood Drive, I assume that's the same  
5 space, Brookwood. That's the space, that's all I  
6 can --

7 Q Brookwood Drive wasn't the Madison Guaranty  
8 space?

9 A No, that's right. It was the space which  
10 was referenced in the March 5 letter as being an  
11 option.

12 Q Okay. And do you recall whether that was  
13 canceled for any reason or whether agreement was ever  
14 entered into?

15 A I am trying to read this letter. The March  
16 5 letter seems to say, this proposal was apparently  
17 disapproved by building services because the price  
18 was not acceptable.

19 Q Okay, I see.

20 A "AHDA concurred in the rejection of that  
21 bid" -- it is hard to read. I believe the last line  
22 of that paragraph says "because we believed that the

1 Madison Guaranty property would be less expensive."

2 Q Did that point of view change with regard  
3 to the Madison Guaranty property being less  
4 expensive?

5 A Well, apparently Mr. Anderson's did,  
6 because I think the next paragraph talks about his  
7 concern about utilities not being fixed or something  
8 of that nature. I have forgotten what the situation  
9 was.

10 Q Which caused the price of leasing to be  
11 more expensive?

12 A Well, it might have. I don't know whether  
13 it really did or not.

14 Q Okay. Would you say your concerns about  
15 the security issues were pretty strong?

16 A Mine -- my own concerns were not that  
17 strong because I didn't live very far from there.

18 The ladies in my office, their concerns  
19 were pretty strong and I wanted to look at all of  
20 their concerns.

21 Q So would you say this was a pretty big  
22 issue for you to go to the governor to bring it to

1 his attention?

2 A That's a relative term, you know. No, it  
3 wasn't a burning issue to me, personally.

4 Q But to --

5 A As director of an agency that had staff  
6 that were concerned about something, I wanted to do  
7 what I could to look out for their concerns. I was  
8 doing my job.

9 Q Did the agency eventually move into the  
10 Madison Guaranty space?

11 A We did. And --

12 Q When did that occur, if you remember?

13 A Sometime late spring, May, June, something  
14 like that. And I believe Madison Guaranty hired a  
15 security guard to be on duty. And we got parking  
16 that was inside a fenced-in area, right outside the  
17 door of the building such that the ladies didn't  
18 actually have to walk out on the street and subject  
19 themselves to too much danger.

20 Q Did you experience any security problems  
21 once you moved into the building?

22 A I don't recall any. It's been a long

1 time. I just don't have any recollection myself of  
2 any.

3 Q Do you recall whether any cars were broken  
4 into or any complaints made to Madison with regard to  
5 that?

6 A No, I don't remember.

7 Q I would like to show you a document Bates  
8 stamped DKS N 016512. I give one to counsel as well.  
9 Let me know when you have had a chance to review it.

10 A Okay.

11 Q It is a one-page document on Madison  
12 Guaranty letterhead, addressed to Mr. C.E. Anderson.  
13 It looks like it is from David Fitzhugh, general  
14 counsel.

15 After looking at this document, does this  
16 refresh your recollection as to whether you were told  
17 about any security problems?

18 A No. I still don't remember. I'm sorry. I  
19 don't have any recollection. I don't see a date on  
20 here anywhere, either. It is hard to --

21 Q You were never informed of employees' cars  
22 being broken into in the parking lot as referenced in

1 the letter?

2 A I won't say I was never informed. I  
3 imagine if Mr. Anderson sent a letter, he probably  
4 told me about it, but I just don't remember.

5 Q After the agency moved into the Madison  
6 Guaranty Building, how would you characterize your  
7 satisfaction with the space for the agency?

8 A I liked it. It was -- it was laid out  
9 well, and we got to design our space that was in a  
10 manner that was suitable for us. Unfortunately, we  
11 did it at a time that we did not anticipate that we  
12 were going to become the Development Finance  
13 Authority. And so, within about, I think, probably  
14 late '85 or early '86 we had to expand.

15 And fortunately -- I mean it was  
16 unfortunate we had to expand, but there was  
17 additional space immediately to the north of our  
18 space in that building. And we were able to take  
19 that up and add to our lease and accommodate our new  
20 staff that we brought on at that time.

21 And I don't remember -- I think it was  
22 early '86, when that was done.

1 Q Did there come a time when you had leave  
2 the space?

3 A Right. We continued growing, and we ran  
4 out of space over there that we could take, and so we  
5 left the building. I don't remember exactly. You  
6 might have records that will show, but it was maybe a  
7 year later. I don't know.

8 Q Is your recollection the agency might have  
9 moved in September of 1987 to a building called  
10 Technology Center?

11 A That sounds probably right. That would be  
12 a little over a year after we expanded into the other  
13 area, yes.

14 Q Where was the Technology Center located?

15 A That was located at 100 Main Street.

16 Q How far away was that from --

17 A Well, that's 100 and we were at 1500, so it  
18 is 15 blocks north.

19 Q Was there ever any concern expressed about  
20 the location of the Madison building with regard to  
21 convenience for the staff in doing their duties?

22 A Well, I don't remember. It was maybe not



1 as convenient as we would have liked, but it was a  
2 lot more convenient than that Brookwood Drive site,  
3 which was three or four miles from downtown.

4 Q Did the agency have to incur the cost for  
5 the construction that was done in the building before  
6 they moved in?

7 A I think we had to pay for some of it. I  
8 don't remember what the arrangement was exactly.

9 Q Was the agency reimbursed when they moved  
10 out for the construction costs they had to pay?

11 A I doubt it. I don't remember how it was  
12 arranged. I just know that we paid a portion, and it  
13 was actually built into our rent so that we paid it  
14 out monthly. And that's all I can recall. I don't  
15 remember whether we had an allowance and we exceeded  
16 it and therefore we had to pay some or what. I just  
17 don't remember how it worked.

18 Q Do you recall whether the cost of  
19 construction were completely paid for by the time you  
20 left, or was there still some outstanding?

21 A I don't remember. I don't remember.

22 Q I'm sorry to go back to this. At the

1 meeting with the governor and Mr. Hartwicke, is that  
2 right?

3 A Yes.

4 Q To refresh your recollection, was Bob Nash  
5 there?

6 A I just can't recall. He would have been  
7 the logical person to be there because of his  
8 position as our liaison. He probably was, but I just  
9 don't remember.

10 Q Do you remember if Betsey Wright was there?

11 A I don't recall.

12 Q Did any members of the ADFA board do any  
13 banking at Madison Guaranty?

14 A I don't know. There weren't very many of  
15 them from Little Rock, so I don't think so; and I  
16 don't think they had a branch anywhere, so --  
17 Margaret Davenport was employed with another bank, so  
18 narrow it down -- I don't know. Other than that, I  
19 have no idea.

20 Q How about any of the staff members?

21 A I have no idea.

22 Q Did you have any accounts there?



1 A No.

2 Q I asked you earlier if you were familiar  
3 with a realty company called --

4 A Is that Greenbelt Properties?

5 Q -- Greenbelt Properties. Are you familiar  
6 with a company called Greenfield Properties?

7 A No.

8 Q During the time that you were looking for  
9 space for the agency, what was your first choice for  
10 office space, if you had one?

11 A Well, I didn't have one. I couldn't find  
12 what I wanted, and that was within our price range  
13 anyway. We needed a pretty good chunk of space in  
14 one block and that was generally the problem, finding  
15 that and finding it in a low cost building.

16 Q Were you consulted at all with regard to  
17 the police commission underwriting of the bonds --

18 A No.

19 Q Was anyone at the agency, that you are  
20 aware of?

21 A Not that I recall.

22 Q Were you surprised that that underwriting

1 was done through the State Police Commission?

2 A I just don't remember whether I would have  
3 been or not. You know.

4 Q Was that an underwriting you generally  
5 would have expected to have been done?

6 MR. STRASSER: What does this have to do  
7 with the permissible scope of your inquiry?

8 MR. O'CALLAGHAN: Part of the scope of the  
9 inquiry is with regard to the bond underwriting  
10 contracts with ADFA and Lasater & Company.

11 MR. STRASSER: And this one was not with  
12 ADFA, so that has nothing to do with this. So what  
13 does this question have to do with --

14 MR. O'CALLAGHAN: Well, let's go off the  
15 record for a second.

16 (Discussion off the record.)

17 MR. O'CALLAGHAN: Back on the record.

18 BY MR. O'CALLAGHAN:

19 Q Have you ever learned or ever heard that  
20 there were attempts made to provide the governor with  
21 money in connection with state bond underwriting  
22 contracts done through ADFA?

1 A Rephrase it -- state that again.

2 Q Sure. Whether you've heard or ever learned  
3 that attempts were made to provide the governor with  
4 money in connection with state bond underwritings  
5 done by ADFA --

6 A No.

7 Q -- or AHDA?

8 A Are you saying they were going to give him  
9 money out of the underwriting, or what are you  
10 saying?

11 Q Provide him money with regard to getting  
12 underwriting contracts.

13 A No.

14 Q During your time at the agency, AHDA or  
15 ADFA, did anyone at the governor's office approach  
16 you about hiring the Rose Law Firm as a bond counsel  
17 in connection with underwritings that included  
18 Lasater & Company?

19 A No.

20 Q Have you ever heard that that was done with  
21 any of the board members?

22 A No.

1 Q This is a pretty general question. Are you  
2 aware of any discussions between Governor Clinton and  
3 any member of the ADFA board with regard to Collins,  
4 Locke & Lasater or Lasater & Company?

5 A I can't recall any such occurrences, no.

6 Q How about with regard to any of the staff  
7 members and the governor?

8 A No, I don't recall anything.

9 Q That includes you as well.

10 A Right. I don't recall ever talking to the  
11 governor about Collins, Locke & Lasater or Lasater  
12 Incorporated.

13 Q How about Dan Lasater?

14 A Or Dan Lasater.

15 MR. O'CALLAGHAN: I have no further  
16 questions at this time. Thank you.

17 MR. FEUER: Let's go off the record for a  
18 second.

19 (Discussion off the record.)

20 EXAMINATION

21 BY MR. FEUER:

22 Q Let me introduce myself again. My name is

1 Mitchell Feuer. I am a counsel on the Minority staff  
2 of the Senate Banking Committee. And for purposes of  
3 this deposition, I will be asking you questions on  
4 behalf of the Minority members of the Senate Special  
5 Committee on Whitewater.

6 Because of the nature of the structure of  
7 this deposition, Mr. O'Callaghan asks questions first  
8 and I ask questions second. I am afraid that the  
9 questions I ask will be repetitive and I apologize  
10 for that in advance. I may jump around a bit in  
11 order to try and cover as much ground in as short a  
12 period of time as possible, being cognizant of the  
13 hour.

14 If you don't understand any of my  
15 questions, please say so, and I'll try to explain my  
16 question or rephrase it.

17 If at any time you want to take a break or  
18 you want to confer with your counsel, just let me  
19 know and we will go off the record for that purpose.

20 Was it your impression in 1984 that certain  
21 neighborhoods of Little Rock were predominantly white  
22 neighborhoods and other neighborhoods of Little Rock

---

1 were predominantly black neighborhoods?

2 A It was.

3 Q Was the Donaghey Building located in a  
4 neighborhood that, in your mind, was predominantly a  
5 white neighborhood or predominantly a black  
6 neighborhood?

7 A It was really not a neighborhood. It was  
8 on the fringe of the downtown business district. It  
9 was still within the downtown business district, so  
10 there wasn't a real neighborhood around it.

11 But we had to move from that building. We  
12 didn't have an option to stay there.

13 Q In your mind, the Donaghey Building was  
14 located in the downtown Little Rock business  
15 district; is that correct?

16 A Yes.

17 Q Was the Madison Guaranty Building located  
18 in a predominantly white neighborhood or a  
19 predominantly black neighborhood?

20 A It was on the fringes of a predominantly  
21 black neighborhood. Across Main Street to the west  
22 was a mixed racial area, which included the



1 governor's mansion and some older homes which had  
2 been recently redone. And to the other side of it  
3 was a predominantly black area, so it was kind of on  
4 a dividing line, so to speak.

5 Q Were the women members of the AHDA staff  
6 who raised a concern about their safety should the  
7 agency move to the Madison Guaranty Building white?

8 A I believe so. We had some ladies that were  
9 African-American, but I don't -- I just --  
10 predominantly they were white and that was probably  
11 the group that had the concern. It's been a long  
12 time. I don't remember if it was unanimous or not.

13 Q Is your recollection that the group of  
14 women who had the concern with regard to their  
15 personal safety should the agency move to the Madison  
16 Guaranty building, that that group of women was  
17 predominantly white?

18 A That's my recollection. Yes.

19 MR. O'CALLAGHAN: I would like to ask you  
20 to explain the relevance of this.

21 MR. FEUER: Well, for one thing, I am  
22 finished with that short line of questioning, but you

1 elicited testimony about staff members of the ADHA  
2 having a concern for their safety and I wanted to  
3 probe into that a little bit further.

4 BY MR. FEUER:

5 Q Did Governor Clinton --

6 MR. O'CALLAGHAN: I want to understand what  
7 the relevance of the race issue was.

8 MR. FEUER: Michael, I think that I've  
9 explained it fully. I would suggest we go on.

10 BY MR. FEUER:

11 Q Did Governor Clinton have a policy in 1984  
12 of encouraging state agencies to maintain their  
13 offices within the city of Little Rock rather than in  
14 suburban areas of Little Rock?

15 A As I recall, there was a policy to locate  
16 state office buildings in the vicinity of downtown  
17 Little Rock. This was during a period of a downturn  
18 in the commissioned office space business, and it was  
19 just a general policy to try to alleviate that  
20 problem, instead of, for instance, building new  
21 office buildings, to occupy existing space.

22 Q Was the Brookwood Drive space located in



1 downtown Little Rock?

2 A No.

3 Q Where was that located?

4 A It was about three miles northwest of  
5 downtown.

6 Q Was this in a suburban --

7 A Yes, somewhat. It was surrounded by some  
8 apartments and residential.

9 Q Was the rent that the AHDA paid on the  
10 space in the Madison Guaranty building comparable to  
11 rents for other commercial office space in that  
12 portion of Little Rock?

13 A It was a competitive rent, yes. The list  
14 that I was shown had rents ranging from 7.50 to  
15 10.50, and it was a little over \$8 as I recall.

16 Q When you joined the ADHA in 1983, did the  
17 agency have a policy of encouraging participation of  
18 Arkansas firms as underwriters in the agency's bond  
19 offerings?

20 A Yes.

21 Q And what was the nature of that policy, and  
22 what was the goal of that policy?

1 A Well, the nature was, multiple -- it was a  
2 multiple goal. One was to offer our bonds to  
3 Arkansans. Another was to just to generally include  
4 as many different people in our bond issues as  
5 possible. And a third was, as I have explained  
6 earlier, to get wider distribution of our bonds on a  
7 regular basis.

8 Q Following the creation of the ADFA, did the  
9 ADFA continue that policy?

10 A Yes, we actually, I would say, carried it  
11 out to a greater degree because we offered more  
12 different types of bond offerings which gave us an  
13 opportunity to include firms in more deals.

14 Q Did the Clinton Administration, beginning  
15 in January 1983, follow a different policy with  
16 respect to the -- with respect to selection of  
17 underwriters for state bond business, than did the  
18 administration of Governor Frank White?

19 MR. STRASSER: He wasn't in the  
20 administration in January of 1983. Do you want him  
21 to talk about when he was in there? Do you want him  
22 to limit to it his personal knowledge?

1 MR. FEUER: Yes. I am asking whether he  
2 has an impression or an understanding that when the  
3 Clinton Administration came in in January of 1983,  
4 whether they pursued a different policy with respect  
5 to selection of underwriters than did Governor  
6 Clinton's predecessor. If he has no --

7 MR. STRASSER: Let him testify from his  
8 personal knowledge.

9 THE WITNESS: I will tell what you I know,  
10 and that is that, from '83 forward, the experience  
11 was that we involved more firms in doing the bond  
12 underwriting business than had been in the past.

13 BY MR. FEUER:

14 Q When you say "we" in that context, are you  
15 referring to the AHDA?

16 A Yes, I'm sorry, the agency that I ran. And  
17 you can see it on paper here. If you see a list of  
18 underwriters that were involved, I am not aware of  
19 what methods the Frank White Administration used, but  
20 I am just telling you that we did that.

21 Q Was that a conscious decision to use a  
22 greater number of underwriters?

1 A The general thrust of our policy was we  
2 wanted to be more inclusive and not exclusive.

3 Q Did inclusion of a larger number of  
4 underwriters lead to a greater degree of competition  
5 among the underwriters?

6 A It did. I felt that we got better service  
7 from the people that served as professionals, because  
8 they were more concerned about other people that were  
9 involved in the transaction with them.

10 Q Did that competition allow the AHDA to  
11 issue bonds more cheaply than would have been the  
12 case otherwise?

13 A It should have. Now, it is hard to  
14 demonstrate whether it did or not, but I at least  
15 felt like we got better service out of the firms that  
16 were working for us. At that point in time, there  
17 were a lot of bond issues coming to market, and it  
18 was occasionally a struggle to make sure that your  
19 deal got a priority among all the various deals that  
20 an underwriter might have been working on.

21 Q I am going to show you a document that's  
22 marked DKS 026171 and 26172. I believe that this is

1 another copy of a document that you were shown  
2 previously by Mr. O'Callaghan.

3 A Yes, sir.

4 Q I note that they do bear --

5 A Looks similar to me.

6 Q Different production numbers.

7 Do you find on this document, on this  
8 chart, a box that lists the number of lead  
9 underwriters used by the AHDA in the period 1981 to  
10 1982?

11 A Yes.

12 Q And how many participants are listed there?

13 A Two.

14 Q And do you find a box that lists the number  
15 of other underwriters used by the AHDA during that  
16 same time period?

17 A Yes.

18 Q And how many are listed there?

19 A Three.

20 Q And coming down to the period 1983 to 1984,  
21 how many underwriters are -- how many participants  
22 are listed as lead underwriters used by AHDA in 1983

1 and 1984?

2 A Four.

3 Q And how many participants are listed as  
4 other underwriters by AHDA in the period 1983-1984?

5 A 11.

6 Q Did you have any reason to believe that the  
7 information that's contained in this chart is not  
8 accurate?

9 A Just from what I can tell, it looks -- it  
10 looks fairly accurate. The only -- there is one  
11 minor inconsistency, in that Collins, Locke & Lasater  
12 and Lasater & Company are actually one and the same,  
13 so that would probably make that number 11, should be  
14 actually 10.

15 But all of the other firms that are listed  
16 here, I recall being involved in transactions.

17 Q Was Lasater & Company a successor firm to  
18 Collins, Locke & Lasater?

19 A Right.

20 Q Let me show you another --

21 A Do you want those back?

22 Q I will take those back.

1 I am going to show you another document.  
2 This has been Bates stamped DKS 026102 through  
3 26124. These are pages that were produced to the  
4 Committee in this consecutive order. I will say that  
5 they were not stapled together in this order, but  
6 these are consecutive pages from the document  
7 production.

8 I am going to direct your attention to the  
9 first page, page 26102, and further direct your  
10 attention to the period 1983, 1984. And I am going  
11 to ask you if you see there a line labeled "Lasater"  
12 on that list and another line labeled "Collins"?

13 A I do.

14 Q Do you understand that information to  
15 convey the dollar amount of the bond issues that were  
16 underwritten by Collins, Locke & Lasater and  
17 Lasater & Company in the period 1983 to 1984?

18 MR. STRASSER: Are you asking him whether  
19 he has personal knowledge of the accuracy of these  
20 figures?

21 MR. FEUER: I am asking him to help me  
22 interpret a document if he is able to.

1 BY MR. FEUER:

2 Q I will ask you, have you ever seen this  
3 document before?

4 A No. I don't know where it came from.

5 Q At the top of the document appears the  
6 legend, "ADFA use of other underwriters by total  
7 dollar amount of issue five periods." Based on your  
8 experience as executive director of the AHDA  
9 beginning in 1983 and continuing through 1984, does  
10 the information provided on those two lines appear to  
11 represent the dollar amount of the bond issues  
12 underwritten by Collins, Locke & Lasater and  
13 Lasater & Company, during the period 1983/1984?

14 A It does.

15 Q Does this document -- can you go to --  
16 strike that.

17 Do you see a line under 1983/1984 that's  
18 labeled "George"?

19 A I do.

20 Q Do you have a belief as to what "George"  
21 represents?

22 A Yes.



1 Q And what is that?

2 A George K. Baum.

3 Q Do you see a line labeled "T.J."?

4 A Yes, that would be T.J. Raney.

5 Q Does this document suggest to you that  
6 George K. Baum and T.J. Raney each underwrote  
7 \$327,500,000 of AHDA bonds during the period  
8 1983/1984?

9 MR. O'CALLAGHAN: You are asking him what  
10 the document says?

11 MR. FEUER: I am asking him how he  
12 interprets this.

13 MR. O'CALLAGHAN: How this is formatted?

14 MR. FEUER: I am asking him if he has a  
15 belief as to what information is presented on this  
16 document, based on his experience at the agency  
17 during that time period.

18 MR. O'CALLAGHAN: But you are not asking  
19 him to verify the figures; is that right?

20 MR. FEUER: That's right.

21 MR. O'CALLAGHAN: Okay.

22 BY MR. FEUER:

1 Q Does that comport with your general  
2 impression of the amount of bonds that were  
3 underwritten by the George K. Baum firm and the  
4 T.J. Raney firm during that time period?

5 A I can't say whether it is the right  
6 amount. It looks -- the relative comparisons look  
7 like it is -- that is probably accurate, because my  
8 recollection is that Raney and George K. Baum were  
9 actually involved in more transactions.

10 Q Do you see listed there lines for Stephens,  
11 Prudential, First Boston, Lazard, Freres, Chase,  
12 Norwest and Merrill?

13 A Yes.

14 Q And did each of those firms also underwrite  
15 bonds for the AHDA during the time period 1983/1984?

16 A They did, yes.

17 Q Do underwriters receive management fees  
18 from the issuer, from a bond issuer?

19 A Right.

20 Q What are management fees?

21 A They are fees -- generally, fees that are  
22 paid to underwriters are divided into three

1 categories. One is for management which is what pays  
2 the investment bankers for their work in structuring  
3 the bond issue. Another category is take down or  
4 concession or -- which is the same as a sales  
5 commission that is paid for the sales efforts of the  
6 investment bankers in selling the bonds, the sales  
7 force of the investment banking companies. And then  
8 a third category covers the costs which they recover  
9 for taking the risk of underwriting and some  
10 miscellaneous other expenses that they have to incur  
11 in the offering of bonds.

12 And of those three categories, the sales  
13 commission and concession to the brokers is the  
14 largest single item.

15 Q Does an underwriter's ability to earn money  
16 from the concession, or sales commission, depend on  
17 that underwriter's ability to sell those bonds to  
18 investors?

19 A That's right. They get paid -- that  
20 portion of the fee is paid strictly based upon their  
21 production, or how many bonds that firm sells, of a  
22 given bond issue. The management fee is normally

1 divided on some other basis, and that's decided  
2 before the bonds are actually sold.

3 Q Does a lead underwriter earn a greater  
4 share of the management fees than do the other  
5 underwriters?

6 A Right, because they do most of that  
7 structuring and preparing the transaction for the  
8 market.

9 Q And does the lead underwriter receive a  
10 greater allocation of the bonds to be sold than do  
11 the other underwriters?

12 A Yes.

13 Q Would that enable -- would receiving a  
14 greater allocation of bonds enable an underwriter to  
15 earn a greater profit if the underwriter is able to  
16 sell those bonds to investors?

17 A That's right.

18 Q Was Collins, Locke & Lasater or Lasater &  
19 Company the lead underwriter for an issue of bonds  
20 issued by the ADH --

21 A I don't remember any instance where ADHA or  
22 ADFA selected them to be the lead underwriter. I

1 don't believe that happened.

2 Q I am going to direct your attention to page  
3 26110 of the document that I handed to you.

4 A Okay.

5 Q That page states at the top, "ADFA use of  
6 lead underwriters by total dollar amount of issues,  
7 four periods." The fourth of those four periods is  
8 1983 to 1991. I am going to ask you to look at that,  
9 at the list of firms listed there, and ask if that  
10 refreshes your recollection as to whether Collins,  
11 Locke & Lasater or Lasater & Company was ever  
12 selected as the lead underwriter.

13 A Yes, they are not on this list. And as I  
14 said, I don't recall them ever performing that  
15 function. I just wanted to look down the list to  
16 make sure we didn't have it either way. But I don't  
17 see Lasater or Collins name on there, and I don't  
18 recall them ever performing that function.

19 Q Would Collins, Locke & Lasater or Lasater &  
20 Company have earned greater profits if they had been  
21 selected as lead underwriter in one of the bond  
22 issues?

1 A Definitely.

2 MR. O'CALLAGHAN: Just so it is clear on  
3 the record and not misleading, did they ever propose  
4 to be lead underwriters on any of the offerings you  
5 are aware of? Did they have the capabilities?

6 THE WITNESS: I believe they proposed. I  
7 don't believe they had the capability. They wanted  
8 to, I will put it that way.

9 It is possible that on some of the smaller  
10 transactions they might have had the capability, but  
11 it was our judgment that the competing proposals with  
12 theirs and others never justified selecting them.

13 MR. O'CALLAGHAN: Usually the lead  
14 underwriters were New York firms?

15 THE WITNESS: Usually. We had smaller  
16 deals in the state where we picked local firms.

17 MR. O'CALLAGHAN: Considerably smaller,  
18 though?

19 THE WITNESS: Yes, even among those,  
20 Lasater was not chosen because we felt there were  
21 other local firms more capable.

22 MR. O'CALLAGHAN: Thanks.



1 BY MR. FEUER:

2 Q When you came to the AHDA in 1983, did you  
3 have an understanding as to what Collins, Locke &  
4 Lasater was?

5 A My only understand was they were an  
6 investment banking firm.

7 Q Were you familiar with them before you  
8 joined the AHDA?

9 A No, I didn't know any of them. Locke,  
10 George Locke, had been a state senator, I knew that  
11 name. And Dan Lasater had a large stable of horses  
12 which ran at Oak Lawn Park and I knew him as being a  
13 horse person. I didn't know he had that business at  
14 that point in time.

15 Q Did members of the state legislature make  
16 recommendations to Governor Clinton regarding  
17 appointments to the board of either the AHDA or the  
18 ADFA?

19 A I don't know if they actually came forth  
20 with their own suggestions. I believe it was the  
21 governor's staff's practice to at least consult with  
22 them about appointments that were being considered

1 and inform them that -- if a state senator was from a  
2 certain part of the state, that senator was usually  
3 contacted to be informed they were considering  
4 appointing a person to a given board or commission,  
5 and sought their input.

6 Q Would it surprise you to learn that members  
7 of the state legislature made recommendations for  
8 appointments to the AHDA or ADFA board?

9 A I would have expected it, yes.

10 Q Was it your impression that private sector  
11 individuals or private sector firms also made  
12 recommendations regarding those appointments?

13 A I think -- I don't know if it was routinely  
14 done, but when the Development Finance Authority  
15 board was first constituted, I believe a number of  
16 different people in businesses were contacted for  
17 input. I don't know that for a fact.

18 I just know that it was an enlarged board  
19 and they were trying to solicit names of good,  
20 qualified independent businesspeople to be on the  
21 board. And as a result, I believe, the effort was a  
22 little more broad-based than just filling one given



1 vacancy on an annual basis.

2 Q Did Don Spears ever serve on the ADFA  
3 board?

4 A Yes, he did.

5 Q Did Ed Willis serve on the ADFA board?

6 A No.

7 Q Was Bill Mathis a member of the AHDA board?

8 A Right, he was a member of the AHDA board.

9 And I am not certain whether his term expired when  
10 ADFA was created or he just was not carried over.

11 But I don't believe he ever served on the ADFA board.

12 Q Was the AHDA audited annually by an  
13 independent public accountant?

14 A Yes.

15 Q What accounting firm performed that audit?

16 A The first year I was there -- I can't  
17 recall the name of the firm. Well, it escapes me,  
18 but either the second or third year I was there, we  
19 selected Deloitte, Haskins & Sells was their name, I  
20 believe, and that same firm is still auditing their  
21 financial statement. It is now known as Deloitte &  
22 Touche.

1 Q Was the accounting firm that preceded  
2 Deloitte, Haskins & Sells also one of the national  
3 accounting firms colloquially known as the Big Six?

4 A I think at that time it was the Big Eight  
5 even.

6 Q Yes, it was.

7 A I think it was. I just -- I'm sorry, my  
8 memory is so bad I can't remember who they were, but  
9 I believe it was one of the larger firms, yes.

10 Q As part of those audits, did the  
11 accountants review the relationships between the  
12 agency and its underwriters? Did they review bond  
13 underwriting contracts as part of those audits?

14 A I don't believe they reviewed anything more  
15 than the funds and accounts which were maintained  
16 with regard to those bond issues. They normally  
17 checked procedures, and perhaps they checked  
18 something about the procedure's carry-out, but I  
19 wasn't the finance person there and so I didn't look  
20 over the auditors' shoulders.

21 I just know that they checked all of the  
22 fund balances and all of the accounts, and made

1 certain that we maintained the proper accounts and  
2 funds under the terms of the bond documents.

3 Q Did the independent accountants ever bring  
4 to your attention any issue with respect to bond  
5 underwriting contracts?

6 A Never.

7 Q What is an official statement with respect  
8 to a bond issue?

9 A It's sometimes referred to as an offering  
10 document. It is the equivalent of a prospectus in a  
11 stock offering. It is a document which describes, in  
12 summary form, all of the terms of the transaction  
13 which -- all the material terms of a transaction  
14 which a buyer of that security might want to look at  
15 in order to make a determination whether to buy the  
16 security.

17 Q Do official statements disclose the  
18 identity of the underwriters of those securities?

19 A Yes.

20 Q Are official statements available to the  
21 public?

22 A In some manner the public can access them;

---

1 I believe it is through Securities Data Service or  
2 some big securities information service of some sort;  
3 I think they are accessible, yes.

4 Q Are official statements typically provided  
5 to some sort of central repository to which the  
6 public has access, either directly or through their  
7 brokers?

8 A Yes, and as a matter of fact, they are  
9 public documents, because the agency is subject to  
10 the Freedom of Information Act. And if they were to  
11 contact the Development Finance Authority, they would  
12 be compelled to allow them to reproduce a copy for  
13 themselves at their offices.

14 Q Did each of the bond issues on which  
15 Collins, Locke & Lasater or Lasater & Company  
16 participated as underwriter, was each of those bond  
17 issues accompanied by an official statement?

18 A To the best of my recollection, they would  
19 have been, yes. The only transactions that we did  
20 not prepare official statements for were ones  
21 referred to as private placements, and in that case  
22 we would not have had an underwriting group.

1           There might have been one investment backer  
2 who might have been acting as a placement agent. And  
3 I don't recall them ever performing that function.

4           Q   Do the anti-fraud provisions of the federal  
5 securities laws apply to disclosures made in these  
6 official statements?

7           A   Yes.

8           Q   What are rating agencies?

9           A   They are national firms that look at the  
10 financial structure of bond issues and assign a  
11 rating which indicates to the buyer of that bond the  
12 degree to which there might be risk of nonpayment of  
13 that bond.

14           With a AAA rating being the highest rating,  
15 meaning there is virtually no risk that the bond  
16 would not be paid, going all the way down to BBB or  
17 BBB-minus which is the lowest investment grade which  
18 is assigned to a bond. Anything below that is  
19 referred to as junk.

20           Q   Do the rating agencies typically review the  
21 arrangements between an issuer and its underwriters  
22 as part of the underwriting process?

1           A   To the best of my knowledge, they look at  
2 that. It's -- most of their judgment on a rating,  
3 most of what they look at in order to judge a rating  
4 is the credit of the bonds. But one of the things  
5 that is important to a buyer is whether there is a  
6 sufficient secondary market in the event that they  
7 might want to get rid of that bond and sell it to  
8 someone else.

9           Q   Were the bonds issued by the AHDA and ADFA  
10 that were underwritten by Collins, Locke & Lasater  
11 and Lasater & Company evaluated by rating agencies?

12           A   Yes.

13           Q   And did they receive ratings, investment  
14 grade ratings?

15           A   Yes. My recollection is that they  
16 received -- I believe it was an A-plus from Standard  
17 & Poor's, and a AA-minus from Moody's. And those  
18 were the typical single family bonds. I don't  
19 believe we issued any below an A-minus, I don't  
20 recall for certain.

21           Q   Do the rating agencies typically look at  
22 the identity of the bond counsel as part of the



1 evaluation?

2 A Yes, the standard is nationally recognized  
3 bond counsel, is the term that is generally used.

4 Q So the rating agencies look to determine  
5 whether a nationally recognized bond counsel is  
6 involved with a particular bond transaction?

7 A I believe that's the case, yes.

8 Q How many law firms in Little Rock qualified  
9 as nationally recognized bond counsels in the period  
10 1983 and 1984?

11 A I believe three or four.

12 Q And how about in the period 1985/1986, did  
13 that change?

14 A I don't think so. I believe at some point  
15 in the late '80s, there was maybe one or two more.  
16 But I believe from '83 to '86, it was fairly static.

17 Q Which were the three or four firms that  
18 qualified from 1983 to '86?

19 A Frye, Eldridge & Clark; Wright, Lindsey &  
20 Jennings; Rose Law Firm. And the fourth one got into  
21 the business sometime during that period of '83 to  
22 '86 -- I can't say exactly when it was -- Mitchell,

1 Williams, Selig, et cetera. I can't remember all the  
2 names of the partners.

3 Q Did any of the bonds ever issued by the  
4 AHDA or ADFA ever go into default?

5 A No.

6 Q So any investor who purchased those bonds  
7 and had -- any investor who purchased those bonds and  
8 continues to hold those bonds has received payments  
9 of principal and interest up to the present day, as  
10 far as you are aware?

11 A Yes. And they still maintain a rating.

12 Q What was the one underwriting firm that  
13 opposed the creation of the ADFA?

14 A Stephens, Inc.

15 Q Did you have an impression in 1985 as to  
16 why Stephens Inc. opposed the creation of the ADFA?

17 A Yes.

18 Q What was that?

19 A They did not want the competition from New  
20 York investment banking firms to come into Arkansas.

21 Q I am going to put in front of you, again, a  
22 letter from Stephens, Inc. to Mr. Charles Stout,



1 dated April 28, 1983. And my question is, did  
2 Stephens, Inc. continue to serve as an underwriter on  
3 various issues of AHDA and ADFA bonds after April 28,  
4 1983?

5 A Yes. When I came to the agency in  
6 September -- I don't know what happened between April  
7 and September, but after September, they were a  
8 co-managing underwriter on the single family housing  
9 bond issues, and they have continued to be ever  
10 since.

11 And one of the co-managers on the single  
12 family bonds was Lasater or Collins, Locke & Lasater  
13 or however you want to -- whatever name they might  
14 have had during that period.

15 Q Did the members of the AHDA board have  
16 staggered terms?

17 A Yes.

18 Q So they didn't all -- all the members of  
19 the board did not come up for reappointment together,  
20 but instead --

21 A Correct.

22 Q -- they came up according to a schedule.

---

1 Is that correct?

2 A Yes.

3 Q When you joined the AHDA in 1983, were any  
4 of the members serving on the board -- had any of the  
5 members serving on the board at that time been  
6 appointed by Governor Frank White?

7 A Yes, I believe -- I believe there were  
8 three members on the board that had been appointed by  
9 Governor White.

10 Q Did that include Chairman Stout?

11 A Yes.

12 (Recess.)

13 MR. FEUER: Back on the record. I have no  
14 more questions at this time.

15 MR. O'CALLAGHAN: I have a couple of  
16 follow-ups. Shouldn't be long.

17 EXAMINATION

18 BY MR. O'CALLAGHAN:

19 Q Generally, how did Lasater & Company  
20 perform with regard to providing services,  
21 co-management services to the agency?

22 A My recollection is that they performed as

1 well or better than the other local firms. They -- I  
2 was told by the senior manager on more than one  
3 occasion that they sold more bonds than most of the  
4 other local firms. In some cases, they sold more  
5 than any of the other locals and others they were  
6 among the top two.

7 Q Were these offerings pretty profitable for  
8 the local firms?

9 A If they could sell bonds. That was their  
10 main opportunity to make profit, was to sell the  
11 bonds, and some sold them more than others.

12 Q So from what -- your understanding is that  
13 Lasater & Company probably made a lots of money off  
14 these offerings?

15 MR. STRASSER: What does "a lot of money"  
16 mean?

17 BY MR. O'CALLAGHAN:

18 Q It was profitable for them?

19 A There was profit there for them to make if  
20 they earned it. The other firms chose not to earn it  
21 as much as they did. And they apparently were better  
22 at selling bonds than the other firms.

1 Q Okay. When you first got there, there was  
2 an accounting firm that the agency was using and then  
3 they subsequently changed the accounting firms?

4 A Yes.

5 Q What precipitated the change in accounting  
6 firms?

7 A We did a request for proposals, and  
8 reviewed the various proposals, and selected another  
9 firm.

10 Q So it wasn't a case that the accounting  
11 firm was resigning?

12 A No, it was not. They continued to -- I  
13 believe it is every three years -- they continued to  
14 do a review of the accounting firms. And I believe  
15 that was probably the cycle we were on when I got  
16 there. It had been two, three years, and they bid a  
17 request for proposal.

18 Q When the agency changed from AHDA to ADFA,  
19 how many additional board members were added?

20 A I believe we went from seven to 11.

21 Q Okay. When you spoke with Susan McDougal  
22 with regard to the leasing with regard to Madison

1 Guaranty space, did you have any knowledge about  
2 whether the McDougals had any business dealings with  
3 the Clintons?

4 MR. STRASSER: This isn't redirect. This  
5 has nothing to do with what he asked on cross. I am  
6 telling him not to answer that.

7 MR. O'CALLAGHAN: I am allowed to ask  
8 whatever I want --

9 MR. STRASSER: I am telling him not to  
10 answer it. Ask him something new.

11 MR. O'CALLAGHAN: We can revisit that at  
12 another time after I ask the Chairman. We can have  
13 him come back to answer to question.

14 BY MR. O'CALLAGHAN:

15 Q Do you choose not to answer that question?

16 MR. STRASSER: I direct him not to answer.

17 MR. O'CALLAGHAN: I'm asking him whether or  
18 not he is going to answer it. He is being deposed;  
19 not you.

20 THE WITNESS: I will take the advice of my  
21 counsel.

22 MR. O'CALLAGHAN: I will reserve my right

---

1 now and we will approach the Chairman on that  
2 question. And then to facilitate the inquiry rather  
3 than doing it -- we can do it now or we can do it  
4 later.

5 MR. STRASSER: Go ahead, ask the rest of  
6 the questions you have on redirect. Knock yourself  
7 out.

8 MR. O'CALLAGHAN: I think that was my last  
9 question. Counsel, just for your information, I  
10 would like to direct your attention to Section 5 of  
11 the resolution, Section 5(b)(7), with regard to  
12 conduct of depositions.

13 MR. STRASSER: I read that, thank you.

14 If that's your last question, why don't you  
15 pose it again and we will decide whether we care to  
16 answer it.

17 MR. O'CALLAGHAN: Okay. Just for the  
18 record, I would like to let you know we are not  
19 limited in what we are allowed to ask in any rounds  
20 of questioning. It is not the same rules you may be  
21 used to with regard to direct and redirect in civil  
22 depositions.

1 MR. STRASSER: Right. I will note, since  
2 we are putting things on the record, it is 6:10. We  
3 have been here for more than eight hours. And I  
4 think Mr. Epes has been more than gracious in giving  
5 you his time to answer the most searching, detailed  
6 questions about the events of 12 and 13 years ago,  
7 more than can be reasonably be expected of any  
8 citizen.

9 Notwithstanding his gracious cooperation so  
10 far with you, he will, on my advice, consider  
11 answering your question if you will pose it again.

12 MR. O'CALLAGHAN: Thank you very much. I  
13 was waiting for you to finish.

14 BY MR. O'CALLAGHAN:

15 Q The question was, at the time you spoke  
16 with Susan McDougal with regard to the leasing of the  
17 Madison Guaranty space, whether or not you were aware  
18 that the McDougals were business partners of the  
19 Clintons?

20 MR. STRASSER: You can answer that.

21 THE WITNESS: I don't recall whether I was  
22 or not.

1 BY MR. O'CALLAGHAN:

2 Q Were you aware at any time during the time  
3 period that the agency was considering leasing space  
4 from Madison Guaranty?

5 A I don't recall.

6 MR. O'CALLAGHAN: That's all the questions  
7 I have. Thank you.

8 Counsel, would you like to clarify anything  
9 or ask any clarifying questions?

10 MR. STRASSER: No. I don't have anything  
11 to say. I am not the one testifying.

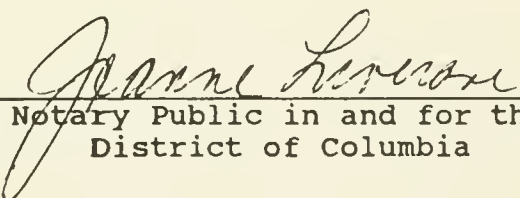
12 MR. O'CALLAGHAN: Thank you.

13 (Whereupon, at 6:15 p.m., the deposition  
14 was concluded.)

15  
16 -----  
17 S. WOOTEN EPES  
18  
19  
20  
21  
22



I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires

JULY 31, 2000



**DEPOSITION OF DENNIS W. FREEMYER  
IN RE: S. RES. 120**

---

**MONDAY, FEBRUARY 5, 1996**

**U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
Washington, DC.**

Deposition of DENNIS W. FREEMYER, called for examination pursuant to notice of deposition, at 2:00 p.m. in Room 186 of the Russell Senate Office Building, before MARYBETH PETERS, a Notary Public within and for the District of Columbia, when were present:

**VIET D. DINH, Esq.  
Majority Associate Special Counsel  
GLENN F. IVEY, Esq.  
Minority Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.**

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Dennis W. Freemyer	
DEPOSITION NUMBER	IDENTIFIED
Freemyer Exhibit 1 .....	49, 2205



## 1                   P R O C E E D I N G S

2           MR. DINH: Mr. Freemyer, as you know, my  
3 name is Viet Dinh and I'm with the majority staff  
4 here, and with me is Mr. Ivey who is with the  
5 minority staff. I will start off by asking you some  
6 questions, then Mr. Ivey will follow up if he has any  
7 other questions that he would like to cover with  
8 you.

9           This deposition is being conducted pursuant  
10 to Senate Resolution 120. The resolution establishes  
11 this Special Committee, administered by the banking  
12 committee, to investigate Whitewater Development  
13 Corporation, Madison Guaranty Savings & Loan  
14 Association and other related matters.

15           Section 1(b)(1) of Resolution 120  
16 authorizes the Special Committee to conduct an  
17 investigation and public hearings into whether  
18 improper conduct occurred regarding the way in which  
19 White House officials handled documents in the office  
20 of White House Deputy Counsel Vincent Foster  
21 following his death.

22           Section 1(b)(2) -- scratch that.

---

1           1(b)(3)(A) authorizes the Special Committee  
2 to conduct investigations and public hearings into  
3 the operation, solvency and regulation of Madison  
4 Guaranty Savings & Loan Association and any  
5 subsidiaries affiliate or other entity owned or  
6 controlled by Madison Guaranty Savings & Loan  
7 Association.

8           And section 1(b)(3)(C) of Resolution 120  
9 authorizes an investigation and public hearings into  
10 the policies and practices of the RTC and the federal  
11 banking agencies regarding the legal representation  
12 of such agencies with respect to Madison Savings &  
13 Loan Association.

14           Finally, section 1(b)(3)(D) of the  
15 Resolution 120 authorizes an investigation and  
16 hearings into the handling by the RTC, the Office of  
17 Thrift Supervision and the Federal Deposit Insurance  
18 Corporation and the Federal Savings and Loan  
19 Insurance Corporation of civil or administrative  
20 actions against parties regarding Madison Guaranty  
21 Savings & Loan Association.

22           Those, I anticipate, will be the subject

1 matter of today's deposition. Let me advise you that  
2 this deposition is being taken -- will be taken under  
3 oath. The stenographer will prepare a record of  
4 questions and answers.

5 THE WITNESS: Okay.

6 MR. DINH: The transcript of this  
7 deposition shall remain committee confidential, and  
8 this deposition is conducted in advance of public  
9 hearings which are currently going on right now. And  
10 they -- the transcript of this deposition shall  
11 remain committee confidential until you are called to  
12 testify at such hearings, if indeed you are called at  
13 all to testify. At that time, the transcript may be  
14 made public in whole or in part.

15 THE WITNESS: I see.

16 MR. DINH: After your deposition today, and  
17 approximately two or three days when we get the  
18 transcript back, you will get a call from a number of  
19 majority staff advising you that you can come to the  
20 Senate to review the transcript and make any  
21 corrections as far as grammatical mistakes or errors  
22 in transcription that you see in an errata sheet.

1 Again, that review is for limited purposes for your  
2 review for corrections and not to be in the  
3 transcript and not to be made public for any other  
4 purpose.

5 If you, indeed, are called to testify at  
6 public hearings, approximately four days prior to  
7 that hearing, we will send you a copy of your  
8 transcript for you and your attorney to prepare for  
9 your appearance and your testimony at the public  
10 hearings. You have a right to counsel, and I see  
11 that you do not have a counsel present here today.

12 THE WITNESS: Correct.

13 MR. DINH: Let me just advise you then that  
14 if you have an objection as to the form in which a  
15 question is stated by either myself or Mr. Ivey, you  
16 just note it and it will simply be noted for the  
17 record. And I will try to clarify the question if  
18 you have any doubts regarding what I'm asking.

19 THE WITNESS: Okay.

20 MR. DINH: I will also advise you that  
21 there are two grounds upon which you can object to  
22 answering a question: That is, because of some

1 privilege that you may wish to claim with respect to  
2 an answer or on the ground that the question exceeds  
3 the scope of the investigation authorized by Senate  
4 Resolution 120. Ultimately, any such objection shall  
5 be ruled upon by the committee chairman, and he may,  
6 at that time, order you to answer the question after  
7 the ruling.

8 THE WITNESS: Okay.

9 MR. DINH: Could you swear in the witness  
10 at this time.

11 Whereupon,

12 DENNIS W. FREEMYER

13 was called as a witness and, having first been duly  
14 sworn, was examined and testified as follows:

15 EXAMINATION

16 BY MR. DINH:

17 Q Thank you, Mr. Freemyer. Could you state  
18 your full name for the record, please.

19 A Dennis William Freemyer.  
20  
21  
22

1  
2  
3  
4 Q And your business phone number?

5 A 202-456-2650.  
6  
7

8 Q From the notice of your deposition, which I  
9 understand you had notice since this morning --

10 A That's right.

11 Q -- have you had any conversations with  
12 anybody other than your attorney or your immediate  
13 family members regarding the subject matter about  
14 which you are called to testify?

15 A No, I haven't.

16 Q Without telling me what you were asked or  
17 what you said, could you tell me whether you have  
18 been interviewed or questioned under oath by any  
19 other investigative agencies regarding the subject  
20 matters.

21 A No, I have not.

22 Q Could you give me a brief sketch of your



1 educational and professional background.

2 A Educational, I have a bachelor of arts in  
3 architecture in environmental design. Do you want  
4 the location?

5 Q Sure.

6 A From Virginia Polytechnic Institute. I  
7 originally went to work for the National Park Service  
8 after a few short-term jobs with an architect  
9 locally. I did project supervision in terms of  
10 construction with the National Park Service, was  
11 promoted into more of a project supervisory role up  
12 to position of architect with the National Park  
13 Service, which was architect project manager. And  
14 then I took a position in the ushers office with  
15 Executive Residence.

16 Q When did you take that position in the  
17 White House ushers office?

18 A That was in 1986, January of 1986.

19 Q 1986. So prior to 1986, you were employed  
20 by the Park Service?

21 A That's correct.

22 Q Were the projects that you managed prior to

---

10

1 1986, were they White House projects?

2 A Yes, they were. Other than the first,  
3 approximately, year that I was with the National Park  
4 Service, I had numerous jobs here in what is called  
5 the "national capital region."

6 Q Okay.

7 A And then I started doing work exclusively  
8 at the White House.

9 Q When did you start working exclusively at  
10 the White House for the Park Service?

11 A It was August of 1978.

12 Q So from August of 1978 until approximately  
13 sometime in 1986, you were a project manager for the  
14 Park Service but focusing on the projects happening  
15 in the White House?

16 A That's correct. And that's actually where  
17 my office was during the time.

18 Q Your office was in the White House?

19 A That's correct.

20 Q Where in the White House?

21 A One of the basement levels.

22 Q Okay. Was it in one of the wings or was it



1 in the --

2 A It was in the Executive Residence.

3 Q It was in the Executive Residence?

4 A Yes, sir.

5 MR. IVEY: Join the club.

6 THE WITNESS: Mine is still in the  
7 basement. I went up and then I went back down. I  
8 probably should clarify that.

9 Q Sure.

10 A I still had an office with the National  
11 Park Service, of course. But being assigned to the  
12 White House, they were kind enough to give me a  
13 little office space, and generally I would report  
14 directly there.

15 Q Okay. And just so I understand the nature  
16 of the work, the Park Service is responsible for the  
17 administration of construction projects in the White  
18 House residence?

19 A That's correct, the major construction.

20 Q The major construction of projects?

21 A Yes, sir.

22 Q And then in 1986, you said you joined the

---

1 White House ushers office?

2 A That's correct.

3 Q In what capacity?

4 A As assistant usher.

5 Q And how long -- are you still an assistant  
6 usher?

7 A I was promoted in, I guess it was June of  
8 last year --

9 Q Uh-huh.

10 A -- to, I guess, assistant chief usher or  
11 first assistant -- I'm not sure of the terminology  
12 that Gary is using -- specializing in project  
13 management.

14 Q So in this position, in your current  
15 position as assistant chief usher in charge of  
16 project management, whom do you report to?

17 A To Gary Walters.

18 Q Gary Walters, who is the head usher?

19 A Chief usher.

20 Q And how many people would you say are  
21 approximately under your supervision in your current  
22 position?

1       A    When Gary would be present, so I would not  
2 be acting for him. Normally I would have 32 people.

3       Q    32 people?

4       A    Yes, sir.

5       Q    When he is absent, let's say, when he was  
6 on vacation, I believe in last August, you would be  
7 acting chief usher?

8       A    That's correct.

9       Q    Then you would be responsible for the  
10 entire 89-person staff of the White House Executive  
11 Residence?

12      A    88, because he wasn't there.

13      Q    Of course. Or 87 excluding yourself?

14      A    87. Exactly.

15      Q    What are your duties as assistant chief  
16 usher?

17      A    My normal duties are to manage the ongoing  
18 construction projects, the ongoing design efforts,  
19 planning, scheduling regarding those projects as well  
20 as serving as Gary's first assistant in our normal  
21 staff functions. I'm responsible also for the  
22 maintenance and the staff that performs the

1 maintenance there. And our offices -- I'm sure as  
2 you know, we do a lot of different things. And I  
3 certainly participate in that whether or not it is a  
4 state dinner, events that are hosted by the First  
5 Family, official or ceremonial functions as well.

6       Q    So just so I understand, besides your line  
7 duties as a project manager, that is, to manage  
8 ongoing construction projects and the scheduling and  
9 planning of such projects for the upkeep and  
10 maintenance or renovations within the White House,  
11 you also have staff duties as the chief assistant to  
12 Mr. Walters?

13      A    That's correct.

14      Q    Now Mr. Walters is the head usher and who  
15 oversees the entire 88-person staff of the Executive  
16 Residence?

17      A    That's correct.

18      Q    So you would be the number 2 person  
19 overseeing the 88-person staff?

20      A    That's correct.

21      Q    And that staff within the Executive  
22 Residence is responsible, generally, for the

1 operation and the maintenance of the Executive  
2 Residence?

3 A That's correct.

4 Q Which includes everything except for the  
5 wings in the White House?

6 A That's correct.

7 Q All the way to the ground floor up to the  
8 third floor?

9 A The basement to the roof.

10 Q Basement to the roof?

11 A Yes, sir.

12 Q Minus the wings?

13 A Correct.

14 Q Do you report -- do you have contact  
15 directly with either the President or the First Lady?

16 A Yes, sir, at times.

17 Q How often would that be?

18 A Well, it varies tremendously. When Gary is  
19 there, it is kind of on an as-needed basis. Our  
20 office is the first point of contact, generally, when  
21 the family would need something within the  
22 residence. So whoever happens to be on duty or

1 answers the phone or encounters them would do what  
2 they want. When Gary is not there, then I would be  
3 the first line, if you will. To try to quantify it,  
4 there are times when I would see them multiple times  
5 a day. There are times when I wouldn't see them for  
6 several days.

7 Q But at least one a week?

8 A Yes, sir.

9 Q And do you go up to the third floor of the  
10 residence once a day?

11 A Some weeks certainly once a day. Some  
12 weeks multiple times a day. Probably not more than  
13 two or three days that would go by when I would not  
14 have been up there.

15 Q Okay. Where is your office currently?

16 A It is in the level called the basement  
17 mezzanine.

18 Q Which is below the ground floor?

19 A Yes, sir.

20 Q Do you have another office in the usher's  
21 office on the second floor?

22 A We all share the office on the first floor.

1 Q Okay. On the first floor?  
2 A That's correct.  
3 Q I'm sorry. Is that the same as the state  
4 floor?  
5 A Yes, it is.  
6 Q Great. And that is also where  
7 Mr. Walters's office is?  
8 A He shares that office, and then he has a  
9 small office on what is called the first floor  
10 mezzanine, which is the directly above the usher's  
11 office on the state floor.  
12 Q Okay. And do you serve on occasion as a  
13 duty usher?  
14 A Yes, I do.  
15 Q Are you one of the four persons in the  
16 rotation as duty usher?  
17 A I was, up until this past promotion.  
18 Q Okay.  
19 A I was actually one of the three that would  
20 rotate.  
21 Q Okay.  
22 A With the new position, I work strictly

---

1 days, so I don't work the shift work --  
2 Q Okay.  
3 A -- except for when there is special  
4 functions --  
5 Q Okay, okay.  
6 A -- and then it is on an as-need basis. We  
7 all would work a state dinner usually, for instance.  
8 Q But prior to your promotion in June of last  
9 year, you were one of the --  
10 A Part of the rotation.  
11 Q Part of the rotation?  
12 A Yes.  
13 Q So prior to June of 1995 there were three  
14 assistant ushers?  
15 A That's correct.  
16 Q And there was no first assistant as such?  
17 A That's correct.  
18 Q And so you were promoted into a new  
19 position and another person took your old position as  
20 assistant usher?  
21 A That's correct. The only thing to  
22 clarify -- if I may, as the assistant usher as one of



1 the three, I had supervisory responsibilities and I  
2 took those responsibilities with me to the new  
3 position --

4 Q Okay.

5 A -- for a maintenance staff and all of  
6 that.

7 Q Okay. So the new assistant usher did not  
8 inherit your "portfolio of supervisory authority"?

9 A Correct.

10 Q And that's why you have 32 persons under  
11 your supervision on a normal basis?

12 A That's correct.

13 Q And can you just briefly give me the  
14 department that you are responsible for, whom do  
15 those 32 people work for?

16 A It is all of our shops. It's the electric  
17 shop, engineering shop, carpentry, paint, plumbing,  
18 and our in-house labor force, if you will, it's  
19 called "operations." Those are the gentlemen that  
20 move furniture, carry things, do kind of all of the  
21 leftover items.

22 Q How many people in operations?

1 A Seven. I would have to look at a roster,  
2 but I think it is seven, and I can clarify that for  
3 you.

4 Q If need be I will show you a roster --

5 A Okay.

6 Q -- and ask you to clarify.

7 In addition to the supervisory function,  
8 you also mention that you were a project manager?

9 A That's correct.

10 Q Now, does that mean that you are in charge  
11 of the major construction projects or renovation  
12 projects within the White House?

13 A I am in charge of those projects in terms  
14 of the Executive Residence.

15 Q Okay.

16 A As you are aware the National Park Service  
17 administers the major construction. Depending on the  
18 project, I take an inactive management of the project  
19 as necessary.

20 Q Okay. In conjunction with the Park Service  
21 or do you supervise the Park Service administration?

22 A Technically, I guess I do not supervise

1 them. In reality, I think it is a team approach and  
2 they let me pretty much manage it. It is a  
3 cooperative effort.

4 Q Okay. Since you are on the front line --

5 A That's correct.

6 Q -- to the White House?

7 A That's right.

8 Q You are the main liaison from the White  
9 House to the Park Service and also directly to the  
10 contractors themselves?

11 A Not really to the contractor, the Park  
12 Service handles that.

13 Q The Park Service, okay.

14 A I would be the liaison between the National  
15 Park Service and the First Family, if you will.

16 Q Okay. Now when Mr. Walters was here last  
17 week, he stressed very much the need for  
18 confidentiality and his utmost respect for the  
19 privacy of the First Family.

20 A That's correct.

21 Q Do you share those values?

22 A Certainly. I think that is paramount to

1 our position, that we are able to obtain the trust  
2 and confidence of any first family.

3 Q And the people under your supervision, do  
4 you supervise them according to this need for trust  
5 and respect for the privacy of the First Family?

6 A Yes, sir.

7 Q Do you have regular talks with your staff  
8 regarding respecting the First Family's privacy?

9 A No, not really. I think that is understood  
10 when you take a job there. Certainly during the  
11 interview process for a prospective employee, that is  
12 something that is mentioned.

13 Q Okay.

14 A That is a historic quality, if you will, of  
15 all people that work there; that it is their home,  
16 that we always respect that.

17 Q Right. And Mr. Walters told us that he is  
18 one of the persons who ensures that during the  
19 interview process that he give the prospective hire a  
20 lecture --

21 A That's correct.

22 Q -- about confidentiality and privacy?

1 A Yes, he gave that to me as well.

2 Q Okay. Great. Did he breathe the fear of  
3 God into you about the privacy?

4 A No, I don't think so.

5 Q Okay.

6 A Just the location does that to you.

7 Q Okay. Great. But it is well understood  
8 and certainly is it in the institutional culture that  
9 the privacy and confidentiality of the information in  
10 the White House residence is -- should remain as  
11 such?

12 A By information I guess --

13 Q Whatever -- well, could you explain to me  
14 how it works. What if -- what if a person sees  
15 something during the course of their duty, a piece of  
16 paper that he or she happens to read?

17 A Okay, then we would not discuss it with  
18 anyone. That -- we would consider that to be  
19 something private of the First Family's and I'm  
20 assuming that it would be in an area, a nonpublic  
21 area.

22 Q Right, right.

1 A Of course. What we see, we keep to  
2 ourselves. What we hear, we keep to ourselves to try  
3 to give them some semblance of a normal life.

4 Q What about materials that are lying around  
5 in the private areas, does your staff move them?

6 A Only if we had no choice.

7 Q Uh-huh.

8 A If, for instance, there was a project going  
9 on --

10 Q Uh-huh.

11 A -- and there was something that should have  
12 been moved that we might observe, we would try to  
13 notify whoever would be appropriate. Quite often in  
14 construction projects, you might enter a room and --  
15 it would be something more of just a sensitivity, I  
16 guess --

17 Q Right.

18 A -- to the family; a picture or something of  
19 that nature. We might take a drop cloth or a sheet  
20 and just put it over those things, because we don't  
21 want other people seeing their private things.

22 Q Okay. Well, let's say that you have some

1 construction workers who need to patch up a wall, and  
2 in front of that wall is a table, what do you do  
3 then? Do you consult -- let's say it is in one of  
4 the areas assigned to the First Lady, who do you  
5 consult or what do you do in order to move the table?

6 A Normally, I would have or somebody else  
7 would have gotten permission to go there in the first  
8 place, and it would be clean. Any items that would  
9 be in the way normally would not be there.

10 Q Okay. During the course of your seeking  
11 permission, you also seek to have the area cleaned?

12 A That's correct.

13 Q Okay.

14 A If at all possible, of course. Now, quite  
15 often our staff might assist with that.

16 Q Somebody in operations or something like  
17 that?

18 A That's correct.

19 Q Let's say that you put in a request to,  
20 say, Ms. Huber -- do you put a request to Ms. Huber?

21 A I have on occasion, depending on the area  
22 that we are working.

1 Q Okay.

2 A It is pretty rare.

3 Q Who else do you put in a request to?

4 A If it involves -- generally if it involves  
5 everything but the private living quarters  
6 themselves, I would have the authority to set in  
7 motion the things that need to be done --

8 Q Okay.

9 A -- within our own staff. If it is in the  
10 private living quarters, we make every attempt to do  
11 something when the family is not there to not disrupt  
12 them. If it is something that has to be done when  
13 they are there, then generally I would seek, you  
14 know, the consent of either the President or the  
15 First Lady.

16 Q Okay. And then talk with a member of her  
17 staff in order to get the actual, can I move this  
18 table or can I move this table?

19 A It would be more general, could we get into  
20 a certain area to work.

21 Q Okay.

22 A Sometimes I would ask them directly. More



1 often than not, it would be a member of their staff.

2 Q Now, do the same procedures apply with  
3 respect to the outside contractors?

4 A Yes. The outside contractors, in essence,  
5 are directed by us in terms of what areas that they  
6 will work. One unique thing about this major project  
7 we have going on right now is that it is so highly  
8 complex that the government ends up literally  
9 managing it. It is a very unique project in terms of  
10 the structure of the contract. As you can imagine,  
11 trying to do a project in somebody's home while they  
12 are living there -- of this scale, is very, very  
13 difficult.

14 Q By this "major" contract, do you mean the  
15 HVAC contract?

16 A Yes, sir.

17 Q And that's the general contract that JCM  
18 controls?

19 A That's correct.

20 Q But it is so complex that you say that the  
21 government basically manages the contract?

22 A That's correct.

1 Q Who within the government?

2 A Well, it would be the National Park Service  
3 team and myself.

4 Q So you do have hands-on experience with the  
5 performance of this contract?

6 A Yes, absolutely.

7 Q Okay. Great. Now, so with respect to this  
8 particular contract, can you tell me the procedure?  
9 Let's say you want to work in a particular area in a  
10 particular room on a particular day -- let's say that  
11 you could pinpoint it to a particular day -- you  
12 request permission from either the First Lady or the  
13 First Family and their designees --

14 A Uh-huh.

15 Q -- and ask for the area to be cleared?

16 A Yeah. I think the easiest way to explain  
17 it would be, generally the park service, along with  
18 the contractor put together a proposed schedule.

19 Q Okay.

20 A And it is presented generally to me. And I  
21 look at it in terms of the First Family's schedule,  
22 in terms of the impact on the house, and the areas,

1 the type of work and try to make a judgment call as  
2 to what areas and when we try to accomplish certain  
3 tasks, and that changes daily. And we, again, try to  
4 plan to do the disruptive things to the family when  
5 they are not there, but that is not always possible.

6 Q And then from this proposed scheduled and  
7 after the consultation with the First Family schedule  
8 and other factors, you come up with the final  
9 construction schedule?

10 A We then formulate a plan to try to get into  
11 specific areas and do specific tasks. We do always  
12 maintain a series of backup contingencies so that if  
13 we can't get to an area we anticipated, we could  
14 still use the same labor pool and skills and  
15 materials that we have on site. And that's the  
16 challenge of the project, if you will.

17 Q Right. That's why you need a project  
18 manager like yourself.

19 A Yes, hopefully.

20 Q And so -- so with respect to this specific  
21 plan as to what areas, you would communicate that to  
22 the appropriate member of the First Family staff in

1 order to get the necessary clearance and, if needed,  
2 the cleaning of whatever space needs to be worked on?

3 A That's correct.

4 Q Okay.

5 A It would also depend on the scope of what  
6 we were doing.

7 Q Okay.

8 A Some things are minor in nature that we  
9 might attempt to do and, for instance, the family is  
10 out for several hours, maybe it's adjusting  
11 something, balancing something. Things that are much  
12 more major in scope, again, we really try to do when  
13 the family is not there.

14 Q Now, with respect to the supervision of the  
15 contractors or monitoring of the contractors and  
16 access of the contractors to the White House  
17 residence, I'm going to try to ask you a number of  
18 questions.

19 A Okay.

20 Q As I understand it, access to the second  
21 and third floor of the Executive Residence is  
22 limited?

1 A Limited, that's correct.

2 Q Okay. To certain people on certain lists;  
3 correct?

4 A To people that have the required type of a  
5 pass --

6 Q Okay.

7 A -- by Secret Service.

8 Q So the residence staff would have access to  
9 second and third floors?

10 A Yes, they have the right to do it. Their  
11 normal course of business does not necessarily mean  
12 that all of our staff would go to and from freely but  
13 they have the right to do that.

14 Q They have a pass with a RES designation?

15 A That's correct.

16 Q And another set of people would be the U.S.  
17 Secret Service?

18 A Right.

19 Q So a pass with USS designation?

20 A That's correct.

21 Q Beyond that, who else has access?

22 A Certainly certain members of the

1 Presidents's staff and Ms. Clinton's staff, and I  
2 believe that there is a list of those people that are  
3 given relatively free access.

4 Q And that list is being kept by?

5 A Secret Service.

6 Q And that is at the monitoring station on  
7 the ground floor?

8 A It is called the F-1 post.

9 Q The F-1 post?

10 A Yes, sir.

11 Q And that records the entries and exits of  
12 those persons -- do the Secret Service keep a log of  
13 those entering and exiting?

14 A They keep a log of those people going up to  
15 the second floor. Basically, I think they have to  
16 assume when a person goes beyond the first floor that  
17 they are going to either the second or third floor,  
18 obviously, and they would be entered into the log.  
19 That does not apply to our staff. We would not apply  
20 to Secret Service.

21 Q So they have a list of people who have  
22 access -- free access to the second and third floor?

1 A Of the two respective staffs.  
2 Q Right.  
3 A They would not have a list of people that  
4 have access in terms of Secret Service or our  
5 staff --  
6 Q Right.  
7 A They knew them just by the pass.  
8 Q By the pass?  
9 A That's correct.  
10 Q So even if you have a White House pass, you  
11 still have to be on this list in order to gain  
12 access?  
13 A That is correct.  
14 Q Without specific clearance?  
15 A That's correct. Or be coming for a meeting  
16 with the President, for instance, and then the names  
17 would already have been provided.  
18 Q Have been provided. And that's what one  
19 would call specific clearance for a particular  
20 meeting or a particular purpose?  
21 A That's correct.  
22 Q Or can a member of the White House staff

1 who is on the list wave or clear another person in  
2 who is walking up with him or her?  
3 A No.  
4 Q Okay. It would have to be from the office  
5 of the First Lady or the President?  
6 A Or from our office.  
7 Q Or from your office?  
8 A Yes, sir.  
9 Q And you have access to the President's  
10 schedule?  
11 A Or they might call us directly, the  
12 President and Mrs. Clinton might ask us or tell us  
13 somebody is coming to see them, could we please  
14 expect them and give them a call when they arrive.  
15 Q Okay. Great. Now, what about construction  
16 workers, what do you do with contractors?  
17 A The contractor is given a pass that  
18 requires them to be escorted --  
19 Q Okay.  
20 A -- by generally either Secret Service or  
21 the National Park Service personnel on site have  
22 passes, or a member of our staff.



1 Q How many National Park Service personnel  
2 are on site?

3 A Six.

4 Q Six persons and they are, for the purposes  
5 of this -- of this project, treated just like a  
6 member of the residence staff?

7 A They do not have a RES pass. I believe  
8 they have the OGA, which is Other Government Agency,  
9 which is more restrictive. Their ability to move  
10 within the House would be more challenged, if you  
11 will. However, they are allowed to go to the second  
12 or third floor. They do not do that without checking  
13 with our office first, to ensure the privacy of the  
14 family.

15 Q But they do have access to the second and  
16 third floor?

17 A That's correct.

18 Q Unescorted?

19 A Unescorted because they are a pass holder.

20 Q Are their entries and exits recorded on the  
21 F-1 log?

22 A No.

1 Q Are their entries and exits recorded on  
2 your set of logs?

3 A No.

4 Q So they -- what about the contractors  
5 themselves, they are given contractor passes?

6 A Uh-huh.

7 Q That requires -- that requires escort  
8 either from the six persons from the National Park  
9 Service or from a member of your staff or from the  
10 United States Secret Service?

11 A That's correct. And more often than not it  
12 is the Secret Service.

13 Q More often Secret Service?

14 A Yes. And that's by a tremendous  
15 percentage.

16 Q Approximately what percentage?

17 A I would say on this project, in terms of  
18 man-hours --

19 Q Uh-huh.

20 A -- 80 percent might be Secret Service.

21 Q 80 percent of the escort service?

22 A Escort time, yes.

1 Q Do you know if there are specific agents  
2 who usually provide the escort service?

3 A There's two different divisions of Secret  
4 Service -- actually there are more than that, but the  
5 ones that we need to deal with -- the uniform  
6 division provides escort in all areas exclusive of  
7 those that immediately impact the First Family as of  
8 the second floor.

9 Q Okay.

10 A There is a division called TSD, which is  
11 Technical Security Division. They are asked to  
12 escort in those areas.

13 Q In the immediate impact areas?

14 A The second floor, for instance.

15 Q The second floor?

16 A The third floor as well.

17 Q The second and third floor is escorted by  
18 TSD?

19 A That's correct. Now, sometimes that is  
20 done in conjunction with uniform division, depending  
21 on the number of people and if there are multiple  
22 locations being worked. But an officer from TSD has

1 to be present for them to work on the second floor.

2 Q Maybe he will request support from the  
3 uniform division?

4 A That's correct.

5 Q But, in any area of the third floor?

6 A I can't think -- well, there are some  
7 utilitarian areas in the north portico that are  
8 accessed temporally from outside from the roof area.  
9 I would think that there are times when uniform  
10 division officers might escort them just to the  
11 mechanical room and back out.

12 Q But certainly, let's say, the exercise room  
13 would be an area escorted by TSD?

14 A That's correct. I should clarify that it  
15 also is dependent on the type of work, to a certain  
16 extent, that is going on. TSD is responsible for  
17 work that is behind any wall, above a ceiling. Their  
18 intent is to safeguard anything being put there that  
19 shouldn't be.

20 Q Okay. Are there specific officers that  
21 you've become familiar with within TSD who have been  
22 regularly assigned to this task?

1 A There are officers that I have known  
2 throughout the years.

3 Q Okay.

4 A But it is a pretty large pool --

5 Q Okay.

6 A -- because a lot of them travel with the  
7 President.

8 Q Right.

9 A And we do, probably, our most intensive  
10 work when the family is not there in their living  
11 quarter areas, which makes it difficult for TSD, of  
12 course.

13 Q But there is a large pool of TSD officers.  
14 There are not any one or two or three that stand out  
15 in your mind as regularly escorting?

16 A There are probably a half dozen that quite  
17 often would be one of the ones or at times there  
18 might be two or three, depending on the quantity of  
19 work.

20 Q Could you just briefly give me the names of  
21 those that you could remember?

22 A Last names?

1 Q Yes.

2 A I wouldn't know last names.

3 Q Well, first names will be fine also.

4 A Well, there is one guy named Jim, I think  
5 one guy named Dave. Park Service would know them far  
6 better than I do. I mean, I know them virtually all  
7 by face.

8 Q Okay. Great. I'm just concerned that TSD  
9 may not keep a log as to the assignments, but that is  
10 fine. We can pursue that in other avenues.

11 Let me move on now and ask with respect to  
12 these escorted contractors, what is the procedure.  
13 What is the understanding with respect to materials  
14 or information that they encounter as -- first let's  
15 talk about information; keep private?

16 A Yes.

17 Q All information should be undisclosed?

18 A We have -- and I have done this as well.  
19 We always give a contractor an orientation talk when  
20 they come there. We stress that, you know, this is  
21 the home of our First Family. We try to stress the  
22 historic nature of the building and ask their

1 sensitivity to that.

2           We are trying to maintain a good  
3 communicative effort between the government and the  
4 contractor, which is somewhat unusual in normal  
5 government construction, ask that they be sensitive  
6 to the building itself, in terms of their  
7 workmanship, tell them point blank that they may or  
8 may not come in direct contact with the First Family  
9 members and may see things or hear things that they  
10 are asked to keep to themselves. And that is  
11 something that is repeated usually several times  
12 during a long-term project.

13       Q   Certainly repeated several times during  
14 this project, the HVAC project --

15       A   Yes.

16       Q   -- which I understand has been ongoing  
17 since 1993.

18       A   That's -- it actually goes back farther  
19 than that from a design standpoint, but on-site  
20 construction, about a year and a half into it. So  
21 really it would be '94.

22       Q   '94?

---

1       A   That's correct.

2       Q   And it still is continuing?

3       A   Yes, probably another year and a half to  
4 go.

5       Q   Great. So the orientation is similar to  
6 the speech that Gary Walters gives to a perspective  
7 hire?

8       A   Yes. It is certainly oriented more to a  
9 construction worker. Generally, I'm the one that  
10 does that and we are trying to, you know, appeal to  
11 people, that we get their best effort. We tell them  
12 things like point blank watch your language. You  
13 never know who could be a couple rooms away that  
14 might overhear a conversation. Common sense.

15       Q   I'm concerned with respect to protecting  
16 the privacy and the confidentiality of the First  
17 Family. With respect to that, what are they  
18 instructed to do when they see materials that are  
19 lying in their work area?

20       A   Well, normally there would not be anything.

21       Q   Okay.

22       A   And I guess we are both kind of qualifying



1 what "that" might be.

2 Q Okay. Sure.

3 A If everyone has done their job properly,  
4 normally there wouldn't be anything that we would  
5 consider sensitive.

6 Q Do you instruct the construction workers  
7 not to disturb ambient materials?

8 A Absolutely. They are asked not to touch  
9 anything. If they need something moved, they're to  
10 ask either the National Park Service or a member of  
11 our staff, if they are present. That means even a  
12 chair, a piece of furniture.

13 Q Okay. And if do they need something moved,  
14 that is, if something is in their way or something  
15 like that?

16 A That's correct.

17 Q And it has to be a member of your park  
18 service or your staff?

19 A That's correct.

20 Q And by "your staff," do you mean the  
21 Executive Residence staff or do you mean the usher  
22 staff?

1 A The Executive Residence staff.

2 Q And then, of course, whoever does it seek  
3 the -- make sure it is authorized --

4 A Correct.

5 Q -- and proper?

6 Do members of your -- do members of your  
7 staff also provide on-site escorts for the  
8 construction workers?

9 A At times, if we are trying to work in  
10 multiple locations at the same time, because we are  
11 trying to accomplish as much work as we possibly can,  
12 again, generally that's when the family would be  
13 gone. There have been times when we don't have  
14 enough escorts available from the Secret Service and  
15 we would supplement that.

16 Q And the same procedure if they need  
17 something removed, they would talk to their escort,  
18 be it the Secret Service or Park Service or a member  
19 of your staff?

20 A And that person, at times, is going to use  
21 the judgment, I can do it. It might be a member of  
22 our engineering group that could be there and it's a

1 matter of moving a chair. There is no point to make  
2 three phone calls to move a chair when they know how  
3 to do it and they can do it.

4 Q And then what happens to that chair when  
5 the work is finished?

6 A Generally our housekeeping crew comes  
7 behind the work once it's completed, does finish  
8 cleanup, vacuuming, or whatever is necessary. The  
9 contractor does the initial cleaning cleanup,  
10 including vacuuming and that sort of thing. But if  
11 there were drop cloths and things like that, of  
12 course, they would be left until the very last day.

13 Q And the chair is moved back to where it was  
14 before?

15 A That's correct.

16 Q And do you ever move furniture around the  
17 room unless -- when you are not instructed to do so  
18 by the member of the First Family or a member of  
19 their staff?

20 A If we need to do it in the course of this  
21 project, sure.

22 Q But then do you replace them at the end of

---

1 the day?

2 A Yes. Unless the work continues throughout.

3 Q Of course. When you're finished, you  
4 replace it whenever you don't need access to the area  
5 anymore?

6 A Our goal in any space would be that it  
7 looks the same as it did prior to the work, of  
8 course.

9 Q Does that include other materials, not  
10 heavy furniture like a chair -- not even something as  
11 heavy as a chair, but let's say a pile of books?

12 A It could if it was in the way, or if we  
13 thought that it was possible that some dirt or dust  
14 might fall on it, that sort of thing.

15 Q And you move it and then move it back?

16 A We would or we would cover it, depending on  
17 the location and what was to be done.

18 Q So really, your true objective is to leave  
19 everything as you found it before and after the work?

20 A That's correct. Certainly our intent would  
21 be that the occupants of the house would walk into a  
22 space after we had worked and wouldn't know that we

1 had been there.

2 Q So is it safe to say that the members of  
3 your staff are not expected -- are expected not to  
4 remove anything from the residence?

5 A Yes, sir, I would say that is correct.

6 Q Does it also follow that the members of  
7 your staff are expected not to place anything in the  
8 residence?

9 A That's correct. Certainly.

10 Q Is it then also expected that the  
11 construction workers would not remove anything from  
12 the residence?

13 A That's correct.

14 Q And not to place anything in the residence?

15 A That's correct. And of course that doesn't  
16 include the new things that they are involved in.

17 Q Or mops and brooms or other incidental  
18 tools of the trade.

19 A Yes.

20 Q And they are to notify a member of your  
21 staff -- the construction workers; that is, they are  
22 to mention it to a member of your staff if something

---

1 needs to be moved?

2 A Yes, generally the park service or the  
3 escorting person will be familiar enough with the  
4 work that they would know right away.

5 Q Okay.

6 A Most of the time, the way it would work is  
7 that they would call the usher's office and say we  
8 need access to a certain place, a certain area, we  
9 need to have a chair and couple of tables moved or  
10 something like that. And that is for the more minor  
11 tasks, if you will. The major tasks, of course,  
12 there is planning. We might literally take every  
13 piece of furniture, everything out of a room,  
14 depending on how extensive the work is.

15 Q Okay. Great. In that note then, let me  
16 just move you to some specific locations that I would  
17 like to ask you about with respect to this HVAC  
18 project that is ongoing.

19 A Okay.

20 Q Let us start by me showing you a diagram  
21 and then we can all work off that. Let me ask the  
22 court reporter to mark this as Exhibit Freemyer 1.

1 (Freemyer Exhibit 1 identified.)

2 BY MR. DINH:

3 Q And let me ask to you and represent to you  
4 to understand this to be a rough sketch of the  
5 architectural plan for the third floor. Does it  
6 appear to be so to you?

7 A I would agree it is a rough sketch. There  
8 has been some changes in some walls since this  
9 drawing was done.

10 Q It is not only rough, it is also old?

11 A That's correct.

12 Q Can you specifically tell me what changes  
13 to what walls have been made with respect to what is  
14 identified as room 320, 321 and 322?

15 A Certainly. The wall between room 320 and  
16 321 has been removed.

17 Q Could you go ahead and mark that on the  
18 thing.

19 A Sure. Just go through it like that.

20 Q Right.

21 A And a portion of the wall between 321 and  
22 322 has been removed.

---

50

1 Q Okay.

2 A There were closets there, so this is not  
3 here.

4 Q So there is only one closet there now?

5 A Actually there is no closet.

6 Q There are no closets there?

7 A That's correct. There is duct work.

8 Q There is duct work. That is just duct work  
9 that goes inside a column or something?

10 A Yes. It is behind a wall surface. So in  
11 essence, it is a passthrough between these two rooms.

12 Q Between 322 and 321?

13 A That's correct.

14 Q But 321 and 320 is now one room?

15 A That's correct.

16 Q Is the bathroom still there?

17 A Yes, it is.

18 Q And what is identified behind door 352?

19 A That's correct.

20 Q And everything else remains the same as is?

21 A Yes.

22 Q And is that commonly known as the exercise



- 1 room?
- 2 A The three rooms: 320, 321 and 322, yes,  
3 sir.
- 4 Q Okay. With respect to 319-A -- what is  
5 identified here as the sitting room 319-A, can you  
6 tell me if there are any changes that have been made  
7 to that room?
- 8 A No, that looks accurate.
- 9 Q Okay. And room 319?
- 10 A That looks accurate as well.
- 11 Q Okay. And do you know to what use is room  
12 319 currently being put?
- 13 A 319?
- 14 Q Yes.
- 15 A 319 is used, I believe, for the storage of  
16 table cloths, linens, some of our maids actually, I  
17 believe, press some things in there as well.  
18 Primarily a storage room.
- 19 Q And 319-A is what is commonly referred to  
20 as the book room?
- 21 A That's correct.
- 22 Q And can you tell me whether door marked 341

- 1 is usually functional.
- 2 A No, that's blocked.
- 3 Q That's blocked?
- 4 A That's right. 342 is the active door on  
5 that side of the room.
- 6 Q And 342 opens to what is known as the main  
7 hallway?
- 8 A Yes.
- 9 Q Okay. And let me direct your attention now  
10 to room 323. Could you tell me if there are any  
11 modifications with respect to that room?
- 12 A The walls immediately south of the wall  
13 dividing the room from the main corridor are no  
14 longer there. There are closets that are indicated  
15 are no longer there.
- 16 Q Could you go ahead and mark those on the  
17 drawing.
- 18 A Sure.
- 19 Q So the door number, say, 357 and 360 are no  
20 longer there because the closets are no longer there?
- 21 A That's correct.
- 22 Q Is that just open space now?

- 1 A Yes.
- 2 Q Okay. What about with respect to the door
- 3 to the closet that is labeled 359?
- 4 A That is still there.
- 5 Q That is still there?
- 6 A Yes, sir.
- 7 Q And the bathroom is still there?
- 8 A Yes, it is.
- 9 Q And when did the two closets in 357 and
- 10 360 -- when was that removed, do you know?
- 11 A No, it has been a number of years now.
- 12 Q Okay.
- 13 A I'm certainly -- I'm not sure if it was
- 14 even done in the Reagan administration. It's been a
- 15 number of years.
- 16 Q Okay. It has been a number of years?
- 17 A Yes.
- 18 Q Let me direct your attention -- certainly
- 19 before 1992?
- 20 A That's correct.
- 21 Q So that wall -- that double wall there at
- 22 the entrance to room 323 is now just basically a

- 1 single entrance, there is no closet on the sides of
- 2 each one?
- 3 A That's correct.
- 4 Q And so you walk into an open room rather
- 5 than a closed foyer space?
- 6 A That's correct.
- 7 Q Now, let me direct your attention to the
- 8 closet labeled 359?
- 9 A Uh-huh.
- 10 Q Has there been recent construction work
- 11 done within the last year related to that closet?
- 12 A Yes, sir.
- 13 Q Could you briefly describe the work that
- 14 has been done to that?
- 15 A This HVAC required the installation of what
- 16 we are calling "temporary systems," the existing
- 17 systems were demolished in the basement. And prior
- 18 to that, we had to find a way to send conditioned air
- 19 to the rest of the house.
- 20 Q Because people still have to live in the
- 21 White House while the construction goes on?
- 22 A That's correct.

- 1 Q Okay.
- 2 A The only way that it could be determined to
- 3 do that was to put in temporary units. I believe
- 4 there's a total of five temporary units now serving
- 5 everything except for the second and third floor.
- 6 Q Okay.
- 7 A To do that, we ended up putting two
- 8 temporary units on the roof of the residence, cut
- 9 holes through the roof, and then had to find a way to
- 10 tie into the existing vertical risers of duct work.
- 11 Q And these are not like your normal window
- 12 units; there are much larger --
- 13 A These are very large units.
- 14 Q -- units that service the entire floors?
- 15 A Portions of floors.
- 16 Q Portions of floors?
- 17 A Yes.
- 18 Q And depending on the strength on the
- 19 capacity of the unit, obviously?
- 20 A Yes, sir.
- 21 Q An then you tap into the existing duct work
- 22 in order to distribute the cold air?

- 1 A That's correct. The temporary units on the
- 2 roof were put up with a very large crane, one by one.
- 3 Q And -- could you go ahead.
- 4 A The only way that could be determined to
- 5 tie in one of the temporary units down to the lower
- 6 floors --
- 7 Q Uh-huh.
- 8 A -- was to either use the bathroom of room
- 9 326 as a duct chase, if you would, or the closet of
- 10 323. I made the decision that we could not afford to
- 11 remove a working bathroom that is used for guests at
- 12 the White House -- it wasn't a very difficult
- 13 decision and --
- 14 Q 326 is a guest room?
- 15 A That's correct.
- 16 Q And one of the guest bedrooms?
- 17 A That's correct.
- 18 Q Okay. Great.
- 19 A -- and asked the designers to further
- 20 explore using the closet of 323.
- 21 Q And they did?
- 22 A Ultimately the decision was made that that

1 was the only way to do it.

2 Q Okay.

3 A And that's correct. We did do that.

4 Q And what is room 323 used for?

5 A It is used now as an office area for

6 Mrs. Clinton.

7 Q Okay.

8 A At the time of this construction --

9 Q And by the time of this construction, could  
10 you put a year and a month on that?

11 A Well, the beginning of, let's say, 1994.

12 Q Okay.

13 A And actually prior to that, this room was  
14 remodeled --

15 Q Okay.

16 A -- from what I understood, to be an office  
17 that would be used by Mrs. Huber. She was going to  
18 be doing -- you know, handle personal things for the  
19 First Family.

20 Q And then now it is being used by  
21 Mrs. Clinton?

22 A Yes.

1 Q Okay. Good. So you have this -- so you  
2 have this plan in order to convert the closet in 323,  
3 the office that is joint -- that is, I guess we will  
4 name it jointly Mrs. Huber and Mrs. Clinton's  
5 office --

6 A Okay.

7 Q -- room 323, to convert that closet into a  
8 duct?

9 A A duct chase.

10 Q A duct chase in order to tie in the  
11 temporary air-conditioning unit to the existing duct  
12 work?

13 A That's correct.

14 Q Now, when was the actual construction of  
15 that duct chase?

16 A The actual construction occurred after the  
17 First Family left for vacation, which was in August  
18 of 1995.

19 Q Okay. In August of 1995?

20 A Yes, sir.

21 Q Were there preparatory work that had to be  
22 performed in the closet prior to the actual



1 construction of the duct chase?

2 A Not in the closet itself.

3 Q Was there any asbestos problems that you  
4 were aware of that had to be treated?

5 A There was not any that I was aware of. We  
6 encountered it during the construction work and we  
7 anticipated it, in all honesty.

8 Q And so there was -- they had to -- after  
9 the discovery of this asbestos you brought in your  
10 asbestos subcontractor?

11 A We already had them there, anticipating  
12 that we would have that problem.

13 Q Now, let me ask you specifically with  
14 respect to the preparation of that project. Do you  
15 remember or do you have records indicating exactly  
16 when that happened?

17 A I think I can recall or I could certainly  
18 look on construction records.

19 Q Why don't you give me a rough estimate  
20 while I fish through my records here.

21 A You are interested in the date that the  
22 construction --

---

60

1 Q Any work began on the closet.

2 A There was -- not above the closet but in  
3 the closet itself.

4 Q Right.

5 A The family left, if I recall correctly, on  
6 August the 15th, and I had made arrangements to have  
7 that closet available upon their departure.

8 Q Okay.

9 A And there was a delay in that occurring.

10 Q Okay. Let me just stop you right there.  
11 The First Family left on August 15th --

12 A Yes, sir.

13 Q -- for a vacation, I believe this was a  
14 vacation in Wyoming?

15 A Yes, sir.

16 Q You made requests -- you made a request  
17 that the closet be made available, that is, I take  
18 it, to have the closet be cleared of whatever  
19 material that may have been there.

20 A About three weeks to a month prior to their  
21 vacation.

22 Q Okay.

1       A    First of all, I asked permission could we  
2 use the closet for that purpose.  
3       Q    To whom did you ask permission?  
4       A    The first person that I talked to was  
5 Carolyn Huber.  
6       Q    Okay. This was approximately three weeks  
7 to a month before to their leaving, so somewhere in  
8 the mid- to late July?  
9       A    I would say mid July.  
10      Q    Mid July?  
11      A    Yes, sir. It was critical to the design of  
12 the temporary systems.  
13      Q    Right. Obviously.  
14      A    So we couldn't wait until the last minute.  
15      Q    We are talking about the August in  
16 Washington here so --  
17      A    Correct.  
18      Q    -- I could definitely understand your  
19 concern about the White House not having  
20 air-conditioning.  
21      A    Right.  
22      Q    So you asked permission in about mid July

---

1 to Ms. Carolyn Huber?  
2       A    Yes.  
3       Q    And did she say yes?  
4       A    She said that she had no problem with it,  
5 that I would need to check with Mrs. Clinton as well.  
6       Q    Okay. And did you?  
7       A    I checked with her aide, Capricia Marshall.  
8       Q    And approximately how long -- approximately  
9 when did you check with Capricia Marshall?  
10      A    If not the day that I talked to Mrs. Huber,  
11 within a day or two thereafter.  
12      Q    So also in mid July?  
13      A    That's correct.  
14      Q    Did you get the go-ahead from Mrs. Clinton  
15 either directly or through Ms. Marshall?  
16      A    I got the go ahead through Capricia  
17 Marshall. It probably was several days, I guess  
18 before that came back.  
19      Q    Okay.  
20      A    Because I was -- I was beginning to become  
21 concerned about, is there any other way to accomplish  
22 this.

- 1 Q Okay. All right.
- 2 A And the reason, I'm sure that you know,  
3 that I was asked to check with Mrs. Clinton was at  
4 that point of course she was using that as an office  
5 area as well.
- 6 Q Right. And do you know for what purpose?
- 7 A Using the office?
- 8 Q Yes.
- 9 A I think she was starting on her book.
- 10 Q Starting the book that has been recently  
11 published, the children's book?
- 12 A She probably had already started it. I  
13 know that she needed a place to get a way from the  
14 second floor, if you will.
- 15 Q And that place was the office?
- 16 A That's correct.
- 17 Q So somewhere around mid July she was  
18 starting to use this office?
- 19 A I think she had already been using it.
- 20 Q All right.
- 21 A Originally, as I said, it was remodeled for  
22 Mrs. Huber's use. And Mrs. Huber had an office in

- 1 the east wing, and I think it evolved into more than  
2 a family space than originally they thought it would  
3 be. Chelsea went up there at times, certainly, to  
4 use a computer there.
- 5 Q She had a computer there --
- 6 A That's correct.
- 7 Q -- that she uses for papers or other school  
8 work?
- 9 A That's correct.
- 10 Q Do you recall approximately when  
11 Mrs. Clinton used -- started to use that office more  
12 on a regular basis?
- 13 A No, I really don't. It was, you know, over  
14 quite a long time.
- 15 Q Okay. But certainly by July of 1995 she  
16 had already been using it as a regular -- more  
17 regularly?
- 18 A Yes.
- 19 Q Okay. Great. So you, about a week later,  
20 you got the go-ahead from Ms. Marshall? You were  
21 concerned -- did you approach Ms. Marshall again?
- 22 A Yes. I don't think it was a week, I think

1 it was several days.

2 Q Several days?

3 A Yes. And I just asked her if she had  
4 checked with Mrs. Clinton and if it would be okay and  
5 to make sure that she understood that, in essence, it  
6 was a demolition of the closet and it wasn't  
7 something that would be only a few months in usage.  
8 And she informed me that she had checked and that it  
9 was okay.

10 Q So you got a go-ahead. It was probably --  
11 if we say, probably three or four days after your  
12 mid-July request?

13 A I would say that is correct.

14 Q And then what happened?

15 A Well, then we planned on using that route  
16 to designers and went forward with that concept and  
17 put together a plan on how we would cut the roof and  
18 tie things together.

19 Q Right.

20 A And we knew that we would have to remove  
21 the ceiling and floor of that closet and waited for  
22 them to go on vacation.

1 Q And you said that there was some delay in  
2 clearing the closet?

3 A That's correct.

4 Q Could you explain.

5 A Talked with Capricia --

6 Q When was this?

7 A Probably a couple of days before their  
8 initial scheduled departure and if I remember  
9 correctly, the First Family delayed their departure a  
10 number of days; I think it was budget related, but I  
11 don't remember.

12 Q So we are talking about early August, say?

13 A I would say maybe August 10th or somewhere  
14 in that area -- just to confirm with her that we did  
15 still need to use that and that that closet would be  
16 available.

17 Q Okay. Would be cleared of whatever.

18 A Whatever was in it, if anything.

19 Q Did you know -- did you do a survey of the  
20 closet before you asked permission?

21 A I went and I attempted a look and it was  
22 locked.



- 1 Q It was locked?
- 2 A Yes, sir.
- 3 Q And when did you attempt to look?
- 4 A That would have been, again, about a month
- 5 prior to their vacation.
- 6 Q Mid July?
- 7 A At the point, we were in a critical design
- 8 stage.
- 9 Q Was there any -- was there any time prior
- 10 to August 15th that you saw the closet unlocked that
- 11 you were able to examine the contents of the closet?
- 12 A No.
- 13 Q So then you talked to Ms. Marshall?
- 14 A That's correct.
- 15 Q Okay.
- 16 A Let me clarify that.
- 17 Q Sure.
- 18 A I had seen in that closet a number of times
- 19 over the years, certainly.
- 20 Q Okay. Do you know what it is usually used
- 21 for by the Clintons?
- 22 A By the Clintons, no.
- 

- 1 Q Okay.
- 2 A I just assumed there were personal things
- 3 in it or whatever.
- 4 Q Okay. So you talked to Ms. Marshall on or
- 5 about August 10th?
- 6 A Uh-huh, just to confirm that we still
- 7 needed to use that.
- 8 Q Right.
- 9 A And she said that she would make sure that
- 10 it was cleaned out.
- 11 Q Okay. And was it?
- 12 A No.
- 13 Q And when was it finally cleaned out? Or
- 14 when did you discover that it was not cleaned out,
- 15 first of all?
- 16 A I would say it was August the 16th. The
- 17 family left on the 15th and we were ready to go full
- 18 steam ahead on the construction work, but that was
- 19 not one of our first priorities. So I'm sure on the
- 20 16th I went to check, because that was when it was
- 21 becoming critical to start that demolition work. The
- 22 office was -- the office -- the closet was still

1 locked.

2 Q Was still locked?

3 A Uh-huh.

4 Q Okay. And then, so did you -- who did you  
5 talk to then?

6 A I attempted to call Capricia Marshall.

7 Q She was traveling with the First Lady?

8 A No, she was still in Washington but she  
9 wasn't in her office, so I had her paged. She  
10 returned the page, I told her that we needed the  
11 closet cleaned out, and she said that she understood  
12 that and she would take care of it. That was the  
13 16th.

14 Q Okay.

15 A The next day, you know, I was doing a lot  
16 of different things --

17 Q Sure.

18 A -- but at some point relatively early in  
19 the morning, I went back into 323. I think we had  
20 cut the hole in the roof. We were getting to a  
21 pretty critical point, and I checked to see if the  
22 closet had been cleaned out and it had not. And I

1 again attempted to call her and she wasn't in. I  
2 paged her later in that day. Probably the afternoon  
3 she called back, and she said I know what you are  
4 calling about, I know it is, you know, getting  
5 critical and I will take care of it for you.

6 Q And did she?

7 A As far as I know, she did. I can tell you  
8 the next morning that it was unlocked.

9 Q The next morning being the 17th?

10 A Let's see, they left on the 15th. No, it  
11 would be the 18th.

12 Q The 18th because the 17th was a --

13 A Well, the 15th they left, the 16th it  
14 hadn't been cleared out yet, the 17th it had not been  
15 cleared out.

16 Q And that's when you paged her again?

17 A That's correct, the second day. And the  
18 morning of the 18th, I went to check. At that point  
19 it was very critical in terms of being able to  
20 complete our work by the time that the family  
21 returned. It was unlocked, I opened it and it was  
22 taken care of.

1 Q Do you know who cleaned out the closet?

2 A I believe she did.

3 Q Did she ask for help from the members of  
4 the operation staff?

5 A That I don't know. I wasn't present when  
6 she did it, as far as I know.

7 Q And if -- what is the procedure that she  
8 would call up to whoever is the duty usher and ask  
9 for some help?

10 A That's correct.

11 Q And that person would call down to  
12 operations engineers --

13 A That's correct.

14 Q -- in order to help?

15 A Depending on what time of the day it was  
16 and what other activities were going on, as you could  
17 imagine. When the family leaves, it is just a  
18 massive flow of people in an effort to try to get as  
19 much done as possible.

20 Q Okay. Sure. Great. And then work started  
21 on the 18th of August, I take it then.

22 A The work started in the demolition of the

1 closet. There was a lot of other work going on  
2 related and not related to that.

3 Q Right, right. I meant --

4 A The minute the helicopter clears the  
5 fence --

6 Q I meant with respect to the closet itself.

7 A That's correct.

8 Q And when you said there was some work done  
9 above the closet, that didn't include the demolition  
10 of the closet?

11 A Correct.

12 Q That was in the roof in order to --

13 A In the attic.

14 Q In the attic?

15 A Directly above.

16 Q Access to which you do not need through the  
17 office itself?

18 A Correct.

19 Q You gain access elsewhere?

20 A That's correct.

21 Q So that work above did not disturb the  
22 office in any way?

1 A That's correct.

2 Q Okay. Great. Let me show you then  
3 document numbered S 020167 and ask you to study  
4 that. This is a daily log of construction.

5 A Uh-huh.

6 Q Great. And can you identify where the work  
7 was done in the closet?

8 A It would be here by GCS, which is the  
9 subcontractor that does asbestos abatement. If I  
10 recall correctly, I think the ceiling in that closet  
11 was sloped because of some existing duct work. It is  
12 a very small closet to begin with. When they started  
13 cutting or demolishing that ceiling, I believe that  
14 is where they encountered the asbestos. And again,  
15 we anticipated that it would be there. We may have  
16 seen that from the attic, but I don't remember  
17 specifically.

18 Q And then, so they encountered the  
19 asbestos. And so that notation there is abatement of  
20 asbestos in the closet?

21 A In the closet, that's correct. They would  
22 polyethylene it to isolate it from the other areas

1 and start to remove the material that contained  
2 asbestos and --

3 Q And could you read the date of  
4 construction?

5 A The 18th of August.

6 Q And that's consistent with your  
7 recollection and testimony earlier?

8 A Yes, sir.

9 Q And when you say "they polyethylene it,"  
10 they just put a -- what do you call it,  
11 decontamination unit?

12 A They put a plastic sheathing and it is  
13 taped in place. And the decon unit is like a little  
14 vestibule, if you will, that allows workers to go in  
15 and out and not contaminate the air outside of that  
16 area.

17 Q So basically, isolate it in plastic?

18 A That's correct.

19 Q Because the asbestos can -- is --

20 A Air friable.

21 Q It is friable. So they contain it and put  
22 it in this vestibule in order to assist in the



1 cleaning up?

2 A That's correct.

3 Q And then they clean up the air all within  
4 this vestibule?

5 A What they do is they remove the material --  
6 generally they put it into bags that are made  
7 specifically for containing it. They use what is  
8 called a negative air machine, which creates a  
9 negative air pressure within that containment  
10 structure to make sure that no material, if it is  
11 released into the air, gets out of that area.

12 Q And in installing this contamination unit  
13 and plastic sheathing and everything that associated  
14 with it, do you recall if there was a need to move  
15 additional materials in or around the closet?

16 A No, I do not. I don't believe that there  
17 was.

18 Q Okay.

19 A Certainly not in --

20 Q Not in the closet because it was cleared  
21 before?

22 A That's correct.

1 Q And then the vestibule was just extended  
2 outside the closet a little bit?

3 A Yes. If anything needed to be moved it  
4 would have been -- there is a desk somewhat near  
5 there, but it would have been a very minor operation,  
6 if you will.

7 Q Okay. But you don't recall any specific  
8 request to move anything?

9 A No, I do not recall a specific request.

10 Q Okay. Thank you. Let me move now to the  
11 construction work that was done in the exercise room,  
12 or at least the construction work that needed to gain  
13 access through the exercise room.

14 A Okay.

15 Q Could you tell me what kind of work that  
16 is, is that work out on the promenade --

17 A Yes.

18 Q -- I take it?

19 A Yes, the promenade runs around the entire  
20 perimeter of the White House.

21 Q And it is an outdoor promenade?

22 A No, well, the promenade -- yes, it is

1 outside deck, if you will. The White House steps in  
2 above the second floor, and then the third floor  
3 projects on up, so there a walkway around virtually  
4 the entire residence at that level. Underneath that  
5 walking service, if you will, the promenade is a  
6 crawl space.

7 Q Okay.

8 A It is about 3-1/2 feet high. There are  
9 multiple entry points into that crawl space and  
10 utilities are located in there, including duct work.

11 Q So you, as part of this project, you need  
12 to install some duct work or fix up some piping?

13 A Piping, electrical, duct work, control  
14 work.

15 Q And one of the points of access is through  
16 the exercise room?

17 A Yes. That one portion the promenade was  
18 accessible from the exercise room.

19 Q Now, in the period -- in the period in July  
20 and August of 1995, was there such access gained  
21 through the exercise room?

22 A I'm sure that there was. There has been

1 throughout this project.

2 Q Okay. And it continues right now?

3 A On a very sporadic basis. Now it would be  
4 more, if there was a problem. We're pretty much  
5 completed with that area.

6 Q Who was the subcontractor or contractor  
7 that would be doing this duct work or piping work?

8 A The duct work would be CMC, the piping  
9 could be JCM, there was some electrical which is  
10 Harrison & Palmer and there was control circuitry as  
11 well, which is a company called EMS.

12 Q And let me represent to you now and -- let  
13 me show you four documents now and represent to you  
14 that they are the four documents that I've discovered  
15 through the daily logs of construction for July and  
16 August of 1995 that show work in the 321 promenade --

17 A Okay.

18 Q -- and ask you to verify whether that work  
19 required entry through the exercise room.

20 A Okay. I can certainly try.

21 Q The first one is S 020123 for August -- for  
22 July 26th, 1995. And I believe under JCM heading,

- 1 the contractor installed piping in 321 promenade?  
2 A That's correct.  
3 Q Did that require entry through room 321 or  
4 the exercise room?  
5 A Yes, it should have.  
6 Q Okay.  
7 A And the reason that I would like to stress  
8 "should have"; it is possible to crawl from one area  
9 of the promenade to another.  
10 Q Okay.  
11 A If I could show you on your diagram.  
12 Q Okay. Why don't you go ahead and mark it  
13 on your diagram there?  
14 A The access point is approximately here.  
15 That may be what this is indicating. There is a  
16 little hatch right here.  
17 Q There is a little hatch right there.  
18 Okay. Write that down "access point."  
19 A Okay.  
20 Q Okay. And there are various other access  
21 points to the crawl space?  
22 A That's correct, around the perimeter.
- 

- 1 Q Oh, it would be rather inefficient, but  
2 certainly possible that someone could crawl into one  
3 access point and crawl to the other access point?  
4 A Depending on where it is and the amount of  
5 utilities that they would encounter. There are  
6 places where it is impossible to go from one area to  
7 another just because of the number of utilities in  
8 there.  
9 Q So when you say it "should," that would be  
10 with respect to that ability -- that possibility that  
11 someone could crawl from one access point to another?  
12 A That's correct in the normal course of  
13 construction would be they would go through the  
14 exercise room through the access --  
15 Q 321?  
16 A That's correct.  
17 Q Incidentally, is there a VCR and TV cabinet  
18 in front of that access point?  
19 A Yes, it's right in that corner.  
20 Q And what do you do with the TV and VCR  
21 unit?  
22 A Pull it out.

- 1 Q You pull it out?  
2 A The whole piece of furniture, if you will,  
3 that it sits in actually was made --  
4 Q Cabinet?  
5 A -- cabinet was made by our carpentry shop.  
6 Q So you pull it out to one side?  
7 A Kind of rotate it. It is pretty heavy.  
8 Q It takes two people?  
9 A Yes.  
10 Q So I take it that the contractors don't do  
11 that themselves?  
12 A That's correct.  
13 Q You do that or Park Service people, the  
14 monitors do that?  
15 A That's correct. And 99 percent of the  
16 time, if not 100 percent, it would have been our  
17 staff.  
18 Q Great. Because it involved a piece of  
19 furniture that is in the White House?  
20 A And it is something that the First Family  
21 uses, and we are very sensitive about other people.  
22 Q So you move it out?
- 

- 1 A Uh-huh.  
2 Q A contractor crawls in, does whatever he  
3 needs to do, and crawls back out?  
4 A That's correct.  
5 Q And what do you do with the VCR and TV?  
6 A Once the work is completed for the day, the  
7 access hatch would be closed and it would be rotated  
8 back into position.  
9 Q So as soon as it is no longer needed, that  
10 is, access to the hatch, you would put the furniture  
11 right back to where you found it before?  
12 A Right back in that corner, that's correct.  
13 Q Consistent with your policy and practice as  
14 you testified earlier?  
15 A Yes.  
16 Q Great. Let me show you in 727 S 020125 the  
17 same thing.  
18 A Okay.  
19 Q Again, JCM installed piping in 321  
20 promenade --  
21 A Correct.  
22 Q -- gaining access most probably through the



1 room 321?

2 A Yes, sir.

3 MR. IVEY: What was the document number?

4 MR. DINH: S 020125. That was July 27th.

5 BY MR. DINH:

6 Q And just to speed things up, I will  
7 represent to you that the same thing happened on the  
8 next day, 7/28, on document S 020127, again  
9 consistent with the --

10 A Might point out that I'm certain that  
11 access went through that area on many other days.

12 Q On many other days?

13 A Absolutely. The logs are certainly not  
14 definitive on every place, every access. They are  
15 general in nature.

16 Q Okay.

17 A As much as humanly possible to itemize  
18 things.

19 Q Because presumably there could have been  
20 work outside of 321, but the access was gained  
21 through there?

22 A That's possible. And again, I think what

---

1 the log shows are the items of major work, if you  
2 will. It is quite likely that if one needed access  
3 through there to make adjustment in the control  
4 system or to do something very minor, that might not  
5 show up on the log.

6 Q Okay. Let me turn now your attention to  
7 room number 319-A --

8 A Okay.

9 Q -- what we have been commonly calling as  
10 the book room?

11 A Okay.

12 Q And do you remember if there was an  
13 incident in 319-A that required the patching of  
14 ceilings or patching of walls of that sort?

15 A Absolutely. There have been several cases  
16 of that.

17 Q Okay. Do you remember one specifically in  
18 319-A?

19 A The one involving Ms. Marshall, I assume  
20 that you mean.

21 Q Yes, that is the one involving  
22 Ms. Marshall.

1       A    Actually there were several incidences, but  
2 the one with her --

3       Q    Which occurred when?

4       A    I would guess that was in July. A lot of  
5 work was done in the attic. And I don't think I  
6 could be any more accurate than that. It could have  
7 been before that. But what happened in that incident  
8 was Ms. Marshall was in the book room at a time when  
9 somebody either dropped something on the ceiling  
10 above or stepped on the ceiling above and she called  
11 and said, you know, help, the ceiling is falling, the  
12 plaster is falling on me and that sort of thing.

13      Q    Did she call you?

14      A    Yes, I believe it was me. If it wasn't me,  
15 somebody told me right away.

16      Q    Okay. Right, right.

17      A    And she was excited about it, shall we  
18 say. She, as well as the First Family, had endured  
19 months of hearing people working overhead. And the  
20 only way that we could accomplish that summer what we  
21 needed to do was to begin a lot of things months  
22 prior to. And the First Family and everybody was

1   incredibly tolerant of the noises and everything that  
2 was required to do it. That incident, a small piece  
3 of plaster, it was mainly paint, in my opinion.

4      Q    Approximately what size?

5      A    Oh, couple inches.

6      Q    Couple inches in diameter?

7      A    Yes, and it was more paint than plaster,  
8 and there were some fragments of plaster fell. And I  
9 believe it hit her on the head or landed right next  
10 to her. And her feeling was you know, what's next,  
11 the whole ceiling?

12      Q    I believe here exact quote to Mr. Ivey was  
13 "I thought a man was going to fall on my head."

14      A    That sounds like her. Yeah. And that came  
15 about during the time when we were -- when I really  
16 was pushing the amount of work that we were trying to  
17 do with the First Family in the residence.

18      Q    Okay.

19      A    And that's a delicate balancing act, to be  
20 honest with you.

21      Q    And then you just sent somebody to patch up  
22 the ceiling?

1 A We did that at a later time.

2 Q At a later time?

3 A Yes, we did sent somebody. I asked the  
4 Park Service to look to make sure that it wasn't a  
5 dangerous situation in terms of was something laying  
6 on the ceiling that was heavy or had a plaster  
7 support been broken above. I personally did not go  
8 into the attic. I did go into the book room, though.

9 Q In order to make a visual inspection?

10 A That's correct.

11 Q Do you remember where that particular piece  
12 of plaster fell off from, and could you go ahead and  
13 put a X wherever that was?

14 A I think it was in the south -- excuse me, I  
15 think the northeast corner. I guess it was somewhere  
16 in that area.

17 Q Over by the video shelves; is that correct?

18 A I believe the video shelves along here.

19 Q Okay. Great. Let me -- and at some point  
20 you said at a later date you patched that up?

21 A That's correct.

22 Q Let me show you a document labeled S 020123

1 reflecting the daily log of construction for July  
2 26th, 1995 and ask you to look for the Callas, the  
3 entry for Callas there.

4 A Okay.

5 Q Is that part of the -- part of the repair  
6 for that ceiling and could you read -- by the way,  
7 could you read that for record?

8 A "Callas patch, 319-A ceiling and the 319  
9 wall. There is some other information there  
10 pertaining to that.

11 Q That's okay.

12 A I don't know if that was patching that  
13 specific location or not.

14 Q Okay.

15 A There were numerous penetrations, if you  
16 will, into that ceiling.

17 Q Okay.

18 A There were some that were scheduled. We  
19 changed a ceiling diffuser. I believe there are two  
20 in that room where the ceiling had to be cut and a  
21 new defuser put in. The wall was also cut up high  
22 near the ceiling to put in a new return grill. It is

1 quite possible that was that repair bill. I would  
2 think that it is quite possible.

3 Q Okay.

4 A The time would be --

5 Q Approximately consistent?

6 A Pretty -- it would follow that we would  
7 have tried to repair that relatively quickly to  
8 hopefully give some confidence to people that we  
9 could take care of that sort of thing.

10 Q About how long does that take?

11 A Well, a couple of days generally. In terms  
12 of the actual application, a minor repair would be a  
13 matter of a half hour to an hour.

14 Q A half hour, and wait to let it dry?

15 A That's correct.

16 Q Okay. Great. So actual work is about an  
17 hour?

18 A At the most.

19 Q At the most?

20 A If that is what in fact that was.

21 Q And of course whatever, and again do the  
22 same rules apply as to displacement of materials or

1 covering of materials --

2 A Sure.

3 Q -- even for a minor job like that?

4 A Sure, absolutely. Everything where --  
5 particularly anything that you are doing overhead we  
6 would always drop cloth things, if it was rug,  
7 hardwood floor or tables or move the things.

8 Q Do your in-house painters paint this?

9 A Depends on the location.

10 Q Say 319-A.

11 A 319-A I don't remember whether our staff  
12 did it. My guess would be that they probably did.  
13 Touching up, trying to blend is difficult. But it  
14 would have either been them or Callas may have done  
15 it.

16 Q But we didn't see an entry for Callas  
17 Painting, but they may have included that in the  
18 patching?

19 A Well, it would have been a while; you have  
20 to give it time to cure. And that may be something  
21 that was not done -- my guess would be that was not  
22 done until the family was on vacation in terms of



1 painting.

2 Q Right, right. I think I could the  
3 represent -- I studied the records through August  
4 30th and there were no painting entries for Callas.  
5 Is that consistent on your --

6 A Well, there was painting that occurred --

7 Q No, I mean with respect to 319-A?

8 A -- at that time.

9 Q 319-A?

10 A 319-A, that is quite possible. Quite  
11 possible.

12 Q So it would take about two weeks to cure  
13 and then the painting would come in?

14 A About a week. They use a quick-setting  
15 plaster, but that is relatively minor in terms of  
16 other activities that were going on certainly.

17 MR. IVEY: Off the record.

18 (Discussion off the record.)

19 MR. IVEY: Could you read back his last  
20 answer.

21 (The reporter read the record as requested.)

22 BY MR. DINH:

1 Q Now, do you recall if there was any duct  
2 work or any type of other work related to the HVAC  
3 system in either 319 or 319-A?

4 A 319-A.

5 Q 319-A being the book room?

6 A That's correct.

7 Q What kind of duct work was it?

8 A There was a return duct that needed to be  
9 installed that involved cutting the wall --

10 Q Okay.

11 A -- in there. And it actually ran into a  
12 closet that is part of a room that is used by the  
13 chef.

14 Q Okay.

15 A That would be this closet right here  
16 (indicating).

17 Q The closet access to which is gained in  
18 room 318?

19 A That's correct.

20 Q Okay. Just go ahead and put an X in that  
21 closet.

22 A Sure.

1 Q The wall --  
2 A Would have been right about that location.  
3 Q So the wall between the 318 and 319-A?  
4 A The closet.  
5 Q Right.  
6 A Actually --  
7 Q Great.  
8 A It is probably 318-A, I don't know if there  
9 is a designation.  
10 Q Okay. Great. Let me just then, on that  
11 note, show you some documents reflecting work done on  
12 August 21st through 23rd approximately, document  
13 S 020173 is a daily log of construction for August  
14 21st. And can you read the work done by Callas  
15 there?  
16 A "Cut duct holes in 317 and 319."  
17 Q Is that part of the same duct work or is  
18 there separate duct work in room 319?  
19 A I believe that would be the return. The  
20 return air duct work that I was describing.  
21 Q Okay.  
22 A Let me look at 317 and maybe that will kind

1 of maybe jog my memory of where else we were  
2 working. Yeah, I think that was some work in here.  
3 Q Okay.  
4 A My guess would be that that was that return  
5 duct that it involved literally cutting a new hole in  
6 the wall and putting in a return grill.  
7 Q So the log of construction was merely  
8 mislabeled; it is not 319, but actually 319-A is  
9 where the duct actually --  
10 A No, there was -- I'm sorry. There was work  
11 in 319 right here as well.  
12 Q Oh, okay. Okay. Right there being the  
13 what corner?  
14 A That would be the southeast corner of 319,  
15 that was a return duct put in there that had given us  
16 some difficulty trying to locate it.  
17 Q So that may have been that work in 319?  
18 A That's correct.  
19 Q Okay. Do you recall approximately when the  
20 work in 319-A the return duct that connects with the  
21 closet in 318 --  
22 A I would have to look at the logs.

1 Q Do you recall if it was within the time  
2 frame of July and August of 1995?

3 A If I was going to guess I would say yes,  
4 merely because, again, you know, that is something  
5 that would be disruptive to that room and we would  
6 try to accomplish it during the family's vacation, so  
7 my guess would be in August.

8 Q Late August, which would have been in --

9 A Right.

10 Q It could have been later?

11 A Possibly.

12 Q Okay. Could it have been earlier, do you  
13 think?

14 A That is possible as well.

15 Q But you have no specific memory?

16 A I would doubt that it was much earlier.

17 Q Okay.

18 A I think I could probably find it in the  
19 logs if it is there.

20 Q Right.

21 A Well --

22 Q We found no other references to 319-A

---

1 except for in this two-month period we have these  
2 references to 319 are the only ones that we have  
3 during this period --

4 A Okay.

5 Q -- from my examination of the documents.

6 A It could have been cut, you know, later I  
7 think.

8 Q More probably later?

9 A More likely.

10 Q Because, of course, the temporary unit did  
11 not come in until August 18th.

12 A Let me clarify the temporary unit so that I  
13 don't create the wrong impression. The temporary  
14 units do not impact the second and third floor.

15 Q Okay.

16 A They are for the rest of the building, if  
17 you will.

18 Q Okay. What services the second and third  
19 floor?

20 A There is a new unit that was placed in the  
21 north portico prior to all of this work.

22 Q Okay.

1 A We did the -- the First Family's area  
2 first.

3 Q So while this is going on, the second and  
4 third floor is well served by a new --

5 A HVAC.

6 Q -- HVAC unit that is completely permanent  
7 and not just temporary?

8 A That's correct.

9 Q Now, throughout these -- all three --  
10 throughout the work done in all these three rooms  
11 which I've asked you in detail about, I assume then  
12 the same procedure with respect to moving or removing  
13 of any materials applies?

14 A That's correct.

15 Q If the contractors find something that is  
16 in his or her way, he or she would request that it be  
17 removed by a member of your staff?

18 A That's correct.

19 Q Do you recall any specific request for  
20 anything to be moved within this period in July and  
21 August of 1995 with respect to any of these three --  
22 the work done in any of these three rooms?

1 A I don't remember a specific request.

2 Q Okay.

3 A But I'm certain that there were numerous  
4 requests to move things or to other things.

5 Q Certainly to move the videotape machine and  
6 the TV?

7 A Yes.

8 MR. IVEY: And for the record, which three  
9 rooms are you referring to?

10 MR. DINH: I'm sorry, 323, the exercise  
11 room, which includes 320 through 322 and 319-A, which  
12 is the book room. And I guess by extension the 319  
13 which is the room off of 319-A, the linen room.

14 THE WITNESS: Correct.

15 BY MR. DINH:

16 Q You don't recall any specific requests?

17 A I recall that things were moved certainly,  
18 but I don't recall any specific thing that was  
19 requested. Normal procedure would be that we would  
20 require the contract to protect certain surfaces and  
21 put down drop cloths and cover things and that is  
22 before any work is started.



1 Q Okay. But again, if anything was moved, it  
2 was put back to where it was before?

3 A As far as I know, yes, sir. I might add  
4 that most of the work in these rooms was not terribly  
5 disruptive to the rooms --

6 Q Okay.

7 A -- with the exception certainly of the  
8 closet. We took out the floor and we took out the  
9 ceiling and we eliminated -- now there is a hole  
10 there, if you will, that you could look up and you  
11 could look down.

12 Q How many people would it take to plaster a  
13 ceiling or the small section of the ceiling that we  
14 were talking about?

15 A Probably one person.

16 Q One person?

17 A Maybe -- I guess maybe a person to assist  
18 if they were working on a ladder.

19 Q Right. Right. Just to hold it to make  
20 sure nothing falls?

21 A To hand them things.

22 Q How about in order to cut a hole for a

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1 duct?

2 A Probably the same thing. Probably two  
3 people.

4 Q Two people. Okay. Cutting the hole in the  
5 closet or closet floor and ceiling in order to put in  
6 the duct?

7 A I believe two people did that. I certainly  
8 looked in on that a couple of times because it was  
9 very critical from a time standpoint. We were  
10 concerned about how thick the concrete was in the  
11 floor and how long it would take.

12 Q That took place in room 323 and not the  
13 book room?

14 A That's correct.

15 Q And there was no access needed through the  
16 book room to get to 323?

17 A That's correct.

18 Q And the doors, as a matter of fact, are  
19 kitty-corner rather than just near each other and  
20 through each other?

21 A Correct.

22 Q Now, with respect to access gained to the

1 access point to the promenade crawl space through the  
2 exercise room --

3 A Yes, sir.

4 Q -- how many people would be involved in  
5 gaining access there in order to install pipings or  
6 duct work?

7 A Generally it would probably be one or two  
8 people.

9 Q One or two people?

10 A It is a small space.

11 Q Uh-huh.

12 A There would be an escort.

13 Q Uh-huh. And the escort would not crawl  
14 into the crawl space, I take it?

15 A Usually he would stand in the exercise  
16 room. They, at times, will go in, I think as much  
17 just to get an idea what they are doing.

18 Q Right.

19 A But they are certainly not required. They  
20 can't go anywhere from there, if you will, to speak  
21 of.

22 Q And, of course, one of the functions of the

1 escort is to make sure that nothing is left there?

2 A That's correct.

3 Q So he would perhaps make a visual  
4 inspection of the crawl space after the person has  
5 gone out?

6 A Generally I think that they stick their  
7 head in, look a little bit just to make sure that  
8 they didn't forget a tool or leave a light on or  
9 something of that nature.

10 Q But, of course, one of the security  
11 concerns is that something is left there?

12 A That's correct. Absolutely.

13 Q Who knows what can be left in a sensitive  
14 area like the White House?

15 A Sure.

16 Q And hypothetically, let's say if the escort  
17 finds that there is something left there he or she  
18 will just investigate and advise the construction  
19 worker that he or she had left something?

20 A I guess it would depend on what it was.

21 Q What it was. Obviously, a flashlight, they  
22 would just take it and say you forgot this?

1 A I think that would be a routine thing.

2 Q Something more dramatic probably takes more  
3 dramatic action?

4 A Sure.

5 Q Now, when a person -- if you can study the  
6 diagram that has been marked as Exhibit Freemyer 1,  
7 when a person -- one has to enter the book room 319-A  
8 in order to gain access to the exercise room;  
9 correct?

10 A Correct.

11 Q The two doors are kitty-corner to each  
12 other; correct?

13 A The two --

14 Q I'm sorry. The doors, that is the entrance  
15 to the book room and the entrance from the book room  
16 to the exercise room; is that correct?

17 A That's correct.

18 Q Approximately how long of a space is that  
19 separating the two doors?

20 A Between door 342 and door 355?

21 Q Exactly.

22 A Five or six feet.

1 Q Five or six feet. Two steps?

2 A Two or three.

3 Q Let's say if I were a contractor escorted  
4 by whomever was escorting me, by the Secret Service  
5 or a member of your staff, and I need to gain access  
6 to the access point in the exercise room, would I  
7 have any need to be in the book room other than the  
8 two or three steps in order to gain access to the  
9 exercise room?

10 A To gain access to the exercise room, no.

11 Q Okay.

12 A However, you could gain access by coming in  
13 door 340 as well.

14 Q Right. Which is the normal point of access  
15 for the contractors?

16 A It really depends on what time the  
17 construction activity was going on.

18 Q Okay.

19 A The service elevator, which is located on  
20 the west end of the building --

21 Q Right.

22 A -- was one method of the contractor

1 accessing this floor. The other method was an  
2 outside lift that has been temporally installed and  
3 they would gain access from the roof.

4 Q Okay.

5 A And they are on opposite ends of the  
6 building, so conceivably they would come in opposite  
7 directions.

8 Q Right.

9 A Last summer, for the most part, I would say  
10 since this entire corridor was impacted with  
11 construction, that there were certainly drop cloths  
12 and possibly the carpeting was even rolled up. I  
13 believe it was. So the majority of access I would  
14 say would have come from this area.

15 Q 342?

16 A Door 342.

17 Q So from the main hallway and taking the two  
18 steps through to the exercise room?

19 A That's correct.

20 Q Okay. Let me ask you now a little more  
21 generally regarding people having access or people  
22 that you've seen working in the book room other than

1 the contractors.

2 A Okay.

3 Q Do you know if Ms. Capricia Marshall works  
4 there on a regular basis?

5 A She is in there and I don't know if on a  
6 regular basis I would characterize it. I have seen  
7 her in the book room a number of times or certainly  
8 over a period of months.

9 Q Okay. Great. At least once a week?

10 A I would say I have not seen her there once  
11 a week, but, you know, there would be times when I  
12 would see her a couple of times in a week and then  
13 maybe not observe her in there for weeks on end. It  
14 would just depending on her duties to Mrs. Clinton.

15 Q Does Ms. Huber -- have you seen Ms. Huber  
16 in the book room?

17 A I have.

18 Q And what does she do in the book room?

19 A I think at times she goes in, either  
20 organizes some of their things. She worked for quite  
21 a period of time organizing the books, placing them  
22 on the shelves and, I guess, cataloging them.



1 Q Do you remember when this period was?

2 A I would say relatively early 1994.

3 Q Okay. She was not doing this in July or  
4 August of 1995?

5 A No, she was not doing that in July or  
6 August of 1995.

7 MR. IVEY: I'm sorry, what was date that  
8 you said?

9 THE WITNESS: I would say early 1995 and  
10 possibly earlier.

11 BY MR. DINH:

12 Q Anybody else in the book room that you've  
13 seen working or --

14 A During this time period?

15 Q During July and August of 1995.

16 A Probably not working.

17 Q Okay.

18 A I mean, I have certainly seen other people  
19 in there.

20 Q What were they doing in there?

21 A They might have been arranging videotapes  
22 on the wall.

1 Q On the video --

2 A Okay. The book room is kind of a  
3 transition room for a lot of things.

4 Q So a lot of people put things in there in  
5 order to catalogue. A lot of people take things out?

6 A Well, it was a place where things could be  
7 placed, I think, for the First Family to take a look  
8 or decide what they want to do with them. Whether it  
9 was a picture or something, there is no other way to  
10 describe it.

11 Q And who would put the things in there?

12 A Our staff at times would be requested to  
13 put things up in the book room.

14 Q Requested by who?

15 A Probably either Capricia Marshall perhaps,  
16 Carolyn Huber maybe. Things might come from what is  
17 called the gift unit, and generally we would check to  
18 see where should we put those things.

19 Q And they would go -- some of them at least  
20 would go to the book room?

21 A Some things would go to the book room or we  
22 might pick things up in the book room as well.

1 Q Do you recall a specific occasion in late  
2 July or early August 1995 when Ms. Huber requested  
3 help from your staff in order to move some boxes down  
4 to her office?

5 A I recall her asking probably me --

6 Q Okay.

7 A -- and I don't remember, you know, a  
8 specific date.

9 Q Okay.

10 A It was not unusual at all for her to call  
11 our office and say, you know, I've got a box that  
12 needs to be carried over to my office or I have got a  
13 box that needs to be carried over to the gift unit or  
14 that sort of thing.

15 So I think that the most accurate way that  
16 I could answer that is I'm relatively certain that I  
17 have taken a call during that period from her to do  
18 that.

19 Q But you don't remember any specific, any  
20 specifics on the thing?

21 A No.

22 Q Do you remember who you assigned, in the

1 operations unit or in the engineering unit, in order  
2 to help her with that?

3 A No, I would have just picked up the phone  
4 and called one of the two and to be honest, I'm not  
5 sure which one. It would depend, again, on the  
6 activities and what was going on and whoever answered  
7 the phone is the person.

8 MR. DINH: Okay. Actually, is this good  
9 time to take about a five-minute break and then I'll  
10 be right back; is that okay?

11 MR. IVEY: That's fine with me.

12 (Recess.)

13 MR. DINH: Back on the record.

14 BY MR. DINH:

15 Q Let me ask you some questions that I have  
16 regarding other construction workers that were  
17 provided to us by the White House, and these I  
18 believe are the daily payroll reports from the  
19 individual contractors.

20 A Uh-huh.

21 Q And let me just show you a document as a  
22 representative of document numbered S020196 and ask

1 you to study that.

2 A Okay.

3 Q First of all, are you familiar with this,  
4 with this document?

5 A No. I've never seen this document.

6 Q You don't -- you don't deal with payroll  
7 reports?

8 A No, sir, I do not.

9 Q Do you know who these documents are  
10 submitted to?

11 A I'm sure that they are submitted to the  
12 National Park Service.

13 Q Okay. Do you know who compiles the daily  
14 log of construction?

15 A It would a member of the National Park  
16 Service. I guess it would depend on who was working  
17 that day.

18 Q But it would be a National Park Service  
19 that compiles the national daily log of construction  
20 that we were talking about earlier before?

21 A That's correct.

22 Q Which you are familiar with?

1 A I have seen those on occasion, yes.

2 Q Okay. Great. Let me just ask you to  
3 study, then, document labeled S020227 and likewise  
4 ask you if you have seen a document like this. It is  
5 again another certified payroll register.

6 A I have never seen a payroll actually before  
7 today.

8 Q Okay. Great.

9 A I have seen similar things on other jobs  
10 certainly that I worked.

11 Q But not in your --

12 A But not in my capacity --

13 Q Not in your capacity as a White House  
14 project manager?

15 A That's correct.

16 Q In your other job, meaning your  
17 architectural jobs?

18 A That's correct.

19 Q And others?

20 A And jobs at the White House.

21 Q At the White House?

22 A But not this job.

1 Q For the National Park Service?

2 A Correct.

3 Q The daily payroll report or the contractor  
4 payroll report is something that is common to project  
5 management?

6 A That's correct. For project supervision I  
7 think would be more accurate.

8 Q Okay. Great. Every subcontractor would  
9 submit this to the general contractor or to the  
10 project manager?

11 A I think each sub has to submit it to the  
12 general and then the general will submit it to the  
13 National Park Service.

14 Q That would account for the time spent on  
15 each particular task on each particular project?

16 A It would be the time spent by each  
17 individual person. I do not think that it would be  
18 identified by task. I think that it would be more  
19 discipline.

20 Q Without that, each subcontractor and  
21 therefore their individual employees would not get  
22 paid?

1 A That's correct.

2 Q They need this in order to release the  
3 funds or in order to meet immediate payroll  
4 obligations?

5 A That's correct. Part of the reason is that  
6 this is a time-and-material contract so that the  
7 number of hours have to be verified for the  
8 government to pay.

9 Q Oh, this is a time-and-material contract?

10 A Yes, sir.

11 Q It is not a fixed-cost contract?

12 A That's correct. Which is quite unusual in  
13 the government.

14 Q Right. Right. Let me ask you to study  
15 again just a representative daily log of construction  
16 so that I get an understanding of the document. I'm  
17 showing you S020087 which was the daily log of  
18 construction for Wednesday the 5th of July 1995. And  
19 let me ask you to study the second box there that is  
20 labeled "number of contractors, men by job  
21 categories."

22 A Okay.



1 Q And it lists the various things. Is it my  
2 understanding, and again, I'm just trying to gain an  
3 understanding of these documents, is it my  
4 understanding that the numbers listed individually  
5 there should total up to the same number that is  
6 listed for each day in the various subcontractor  
7 payroll reports for each particular day?

8 A Generally, yes.

9 Q Okay.

10 A But not always.

11 Q Okay. Could you explain to me the  
12 circumstances under which they would not match up?

13 A If a person was working off site --

14 Q Okay.

15 A -- on this project and that could be either  
16 at fabricating something back in a place of business.

17 Q Uh-huh.

18 A We have what is called the executive  
19 support facility, that is a warehouse facility, and  
20 the contractor has been given space out there where  
21 they can store materials and equipment and they also  
22 do work out there as well.

1 Q Okay.

2 A Those two immediately would come to mind.

3 Q So the daily log of construction only  
4 records on-site work?

5 A Yes, that's correct.

6 MR. DINH: Okay. Thank you very much. Off  
7 the record.

8 (Discussion off the record.)

9 MR. DINH: We are back on the record.

10 BY MR. DINH:

11 Q Okay. Again, I want to return to a line of  
12 questioning that I was pursuing earlier respecting  
13 the request that you may have received or you or a  
14 member of your staff may have received to move  
15 various things --

16 A Okay.

17 Q -- related to the construction work that is  
18 being done either in the book room, the -- and by the  
19 "book room" I mean 319-A and 319. That is, the  
20 linen room off the book room, the exercise room; that  
21 is, 323, 321, 322, the three rooms that are now made  
22 into one.

1 A Okay.

2 Q And the office; that is, room 323 that is  
3 now being used by Mrs. Clinton as Mrs. Clinton's  
4 office. With respect to the construction work that  
5 was done to those three rooms in the period of July  
6 and August of 1995 --

7 A Okay.

8 Q -- you testified earlier that you remember  
9 various occasions where you or a member of your staff  
10 was asked to move things out of the way?

11 A Correct.

12 Q And then, of course, they were replaced?

13 A Correct.

14 Q And they were replaced after you were done  
15 with them?

16 A Unless it was something that we were asked  
17 to remove permanently, certainly.

18 Q And one of the -- one of the examples of  
19 that is the TV and VCR cabinet?

20 A That's correct.

21 Q Which had to be moved whenever access  
22 needed to be gained through the exercise room out

1 into the promenade crawl space?

2 A Correct.

3 Q And do you remember any other specific  
4 requests with respect to -- move any materials with  
5 respect to the work associated with the closet in  
6 323? I think I've asked you this question before but  
7 just for thoroughness.

8 A Could you ask me that again, please.

9 Q Can you -- other than your initial request  
10 to Ms. Marshall to clear the closet?

11 A Uh-huh.

12 Q Can you recall anybody else, any of the  
13 contractors, asking you or another member of your  
14 staff, to the best of your knowledge, to remove any  
15 additional materials so that they could go on with  
16 their work?

17 A Other than what I mentioned before, if  
18 there was something around the door of the closet  
19 itself that made it difficult to put up that plastic  
20 enclosure, no.

21 Q Okay. Do you remember any request with  
22 respect to the materials around the door?

1       A    I vaguely remember something being in the  
2 way, whether it was a chair perhaps or there is a  
3 built-in book case that I'm sure was not moved and  
4 there was also a desk. Maybe the desk might have  
5 been partially in the way. I kind of vaguely  
6 remember that. The enclosure grows pretty large.

7       Q    Right. This is the decontamination area?

8       A    That's correct.

9       Q    Did you -- did you or did you have somebody  
10 else move any records or books either on the  
11 bookshelves or lying in or around the door?

12      A    No.

13      Q    Just actual physical furniture, that is, a  
14 chair or a desk?

15      A    I would say so. If there was anything  
16 there, it would have been moved a foot or two --

17      Q    Right.

18      A    -- and left.

19      Q    Right. You mentioned that on the 18th of  
20 August, in the morning of the 18th of August, the day  
21 after you placed a second call in to Ms. Marshall?

22      A    Correct.

---

1       Q    You came and unlocked -- opened up the  
2 closet and it was cleared?

3       A    That's correct. It was not locked.

4       Q    It was not locked. You opened it up?

5       A    Right.

6       Q    And previously it was locked?

7       A    That's correct.

8       Q    And now it is not locked and you open it up  
9 and see that it was cleared?

10      A    That's correct.

11      Q    Was it completely empty?

12      A    That's correct.

13      Q    There was nothing else in it?

14      A    Not.

15      Q    No papers?

16      A    No.

17      Q    No trash?

18      A    No.

19      Q    Okay. With respect to the -- with respect  
20 to the patching of the ceiling in room 319-A.

21      A    Okay.

22      Q    Do you recall any specific request in order

1 to move or to -- to move any furniture related to  
2 that patching work?

3 A The only thing -- this is a very vague  
4 recollection.

5 Q Okay.

6 A But my guess would be because of the  
7 location we might have needed to move a table. There  
8 was generally a large table in that room --

9 Q Okay.

10 A -- or a combination of tables. Sometimes  
11 there would be one, sometimes there would be two and  
12 various -- so it is quite possible to do that work in  
13 that corner, we might have had to shift a table.

14 Q Okay.

15 A We wouldn't have removed it from the room.

16 Q Shift a table for an hour or two and then  
17 shift it back?

18 A Or shift it and leave it for a couple of  
19 days depending on when the work occurred. If the  
20 family was gone, generally we would wait to reset  
21 rooms because we had other work to do.

22 Q You mentioned that there was usually a big

1 table in that room.

2 A That's correct.

3 Q Is that separate from a smaller cart that  
4 may have been worked as -- that may have been used as  
5 a flat surface also?

6 A Like a rolling cart?

7 Q Yes.

8 A Quite often there was a rolling cart.

9 Q There was a rolling cart?

10 A Yes.

11 Q Could I ask you to take your pen again and  
12 to the best of your ability and recollection, draw  
13 for me the proximate location and size of that big  
14 table that you were testifying about.

15 A Well, there was, certainly was more than  
16 one table at times.

17 Q Okay.

18 A During that period, my guess would be that  
19 there was a table probably something like this.

20 Q Okay. Now, what kind of table is this, do  
21 you know, approximately how long, how big?

22 A It was a folding table probably. Well,



1 when there was only one, I would guess that's six to  
2 eight feet long.

3 Q Six to eight feet long, a folding table,  
4 the kind that caterers use, the folding table?

5 A Yes, kind of like a plywood top.

6 Q More lighter weight and not a heavy oak  
7 table?

8 A Correct.

9 Q During this period of July and August of  
10 1995, do you recall if there were materials or books  
11 or anything like that on the table?

12 A I don't recall specifically. Quite often  
13 there -- that table had many things on it, books,  
14 pictures, little objects, knickknacks, if you will,  
15 things of that nature.

16 Q Do you recall if there were any boxes on  
17 the table?

18 A No, I don't recall specifically.

19 Q How about underneath the table?

20 A Again, from time to time there were boxes  
21 quite often underneath the table.

22 Q Now, these are the same kind of materials

---

1 that you testified earlier was, you know, brought in  
2 either from the gift section or from various other  
3 places in order to be catalogued or to be  
4 distributed?

5 A Correct.

6 Q This is the gathering point of all that  
7 material that you said that comes in?

8 A This was kind of a transition room, if you  
9 will.

10 Q And the table was the locus of that  
11 transition?

12 A That's correct.

13 Q Do you recall at any time whether -- you  
14 mentioned earlier that the First Lady started working  
15 on her book sometime in July?

16 A I think it was prior to that.

17 Q Prior to that.

18 A But I think that -- no, it was quite a bit  
19 prior to that.

20 Q Do you recall if there were outside persons  
21 helping her with her book? Somebody from a  
22 publisher?

1 A There were people that came in that were  
2 working there with her.

3 Q Now, what space did they use in order to do  
4 that? Was it -- do you know what room that was in?

5 A During that time, let's see, during those  
6 two months probably was both 323 and 319-A.

7 Q Is there a computer in 319-A?

8 A Yes, there was then.

9 Q There was then?

10 A Yes. I don't know if there is one still  
11 there or not.

12 Q Against which wall would that be; do you  
13 know? Do you remember?

14 A I think the table configuration may have  
15 been different. I believe that there was a computer  
16 somewhere in this portion of the room.

17 Q Okay.

18 A I don't know if it was sitting on the  
19 table, separate table perhaps or maybe a computer  
20 cart that rolls.

21 Q Okay. All right. And the people who  
22 helped Mrs. Clinton with her book would sometimes use

1 this room in order to do that work?

2 A Yes.

3 Q Do you remember what their names are?

4 A I could look at the log and recognize them.

5 Q Is Barbara Feinman one of them?

6 A Yes.

7 Q Is Betty Selatin one of them?

8 A Yes.

9 Q Besides those two, anybody else?

10 A Yes, I think there was another. Debbie. I  
11 believe it was Debbie.

12 Q Okay. Okay. I will ask you to look at the  
13 logs a little bit later on.

14 A Okay.

15 Q And now we will leave it at that. Now,  
16 some work occurred before they left on vacation?

17 A Oh, yes.

18 Q Including the use by the book people of the  
19 book room, I suppose?

20 A Yes, I'm trying to think back when the  
21 intense work on the book, when they were starting to  
22 try to really put it together, was, and I believe

1 that was leading up to their vacation. I think there  
2 was, on Mrs. Clinton's behalf, she was trying to  
3 finish it before vacation.

4 Q So early August, late July, early August?

5 A Yes, if not starting sooner than that  
6 certainly but during that period, yes.

7 Q And the people associated with the book,  
8 that is, Ms. Feinman and Ms. Selatin would use  
9 sometimes the book room in order to accomplish that  
10 work?

11 A That's correct.

12 Q Do you remember -- do you know who Helen  
13 Dickey is?

14 A Yes.

15 Q Do you remember if -- do you know if she  
16 was in the White House visiting at this time around  
17 July and August of 1995?

18 A I think she was in town but I don't know if  
19 she was specifically in there.

20 Q Did you ever see her working in the book  
21 room also?

22 A During this period also?

1 Q July and August of 1995.

2 A No, I did not.

3 Q How often do you go into the book room?

4 A During this period?

5 Q During this period, yes.

6 A During this period, I would say that I  
7 probably averaged once every three days.

8 Q Because of the construction work going?

9 A Leading up to it or if I needed to, if I  
10 happened to be in the office and needed to take an  
11 envelope to Mrs. Clinton or take something to the  
12 other ladies that were working up there.

13 Q Right. Right. Mrs. Clinton, of course,  
14 was working in 323?

15 A She was and at times she would be in there  
16 as well.

17 Q In the book room as well?

18 A Yes, 323.

19 Q But her assistants or whoever was assisting  
20 her with the book would be in the book room?

21 A She would be in 323.

22 Q She would be in 323?

- 1 A For the most part.
- 2 Q Yes.
- 3 A She had a desk that she used in 323 that
- 4 was her office.
- 5 Q And who would be in the book room?
- 6 A The other ladies.
- 7 Q The other ladies. Does Mrs. Clinton
- 8 sometimes work in the book room?
- 9 A I think she did her work in 323.
- 10 Q In 323.
- 11 A But she certainly might walk in and talk to
- 12 them.
- 13 Q Because they were assisting her in the
- 14 writing?
- 15 A Yes. And they would conversely walk in and
- 16 talk to her in 323.
- 17 Q So whenever you needed to take an envelope
- 18 up to one of the ladies or Mrs. Clinton, you would
- 19 enter either 323 or the book room?
- 20 A That's correct.
- 21 Q So you would enter the book room
- 22 approximately once every three days, did you say,

- 1 during this period?
- 2 A Yes, I'm guessing. The period, of course,
- 3 after they left, of course, I was in it multiple
- 4 times a day at times.
- 5 Q Right, right. Because you were doing the
- 6 construction work?
- 7 A That's correct.
- 8 Q Okay. Great. Okay. I'm going to turn now
- 9 to the logs to which you refer but before we do that,
- 10 let me do some preliminary questions so that I
- 11 understand the nature of these logs. Now, these are
- 12 kept, I understand, by the duty usher?
- 13 A That's correct.
- 14 Q Now, where does the duty usher sit?
- 15 A On the state floor in the usher's office.
- 16 Q In the usher office. This is upstairs from
- 17 F-1?
- 18 A That's correct.
- 19 Q Upstairs directly from the same staircase?
- 20 A Yes.
- 21 Q And the Secret Service officer keeps the
- 22 official F-1 log at the entrance at the ground floor?



1       A    That's correct. The people that go  
2 upstairs --  
3       Q    Have to go to the second and third floor?  
4       A    -- via the elevator.  
5       Q    I'm sorry. Via the elevator?  
6       A    Via the elevator.  
7       Q    Could you explain.  
8       A    The people that come in, say, from the  
9 north portico --  
10      Q    Uh-huh.  
11      A    -- who do not pass by F-1 might go up to  
12 the second floor and they would not necessarily show  
13 up on the F-1 log. There is an officer outside of  
14 the usher's office that the normal routine would be  
15 to call down to the officer at the F-1 and advise  
16 that someone had gone up and identify them.  
17      Q    Okay. And that would be included in the  
18 F-1 log?  
19      A    That's correct.  
20      Q    So the F-1 log does not necessarily reflect  
21 only the people who come up through the elevator but  
22 also may be through the north portico?

1       A    That's correct. And again, there are  
2 opportunities -- there are times when people might  
3 come in again from the north portico and an officer  
4 might not be present at F-5 and go up. So it is  
5 possible that they would not show up on the log.  
6       Q    Show up on the log. Okay. Now, that is  
7 with respect to the Secret Service logs?  
8       A    That's correct.  
9       Q    F-1 logs?  
10      A    That's correct.  
11      Q    The official set of logs?  
12      A    Right.  
13      Q    What about your logs? From where do you  
14 get that information?  
15      A    We get information from the F-1 officer who  
16 would call up if anyone was coming up and also anyone  
17 passing through our office. Generally, we are aware  
18 of the First Family, of the people who go upstairs.  
19      Q    And the log is kept on a computer?  
20      A    Yes.  
21      Q    You would type it directly into the  
22 computer?

1 A That's correct.  
2 Q So is it fair to say that the log is kept  
3 independent of the F-1 log?  
4 A That's correct.  
5 Q But based sometimes on the information  
6 provided by the F-1 officer?  
7 A It is more of a courtesy than requirement  
8 that the officer call us of anyone that is attempting  
9 to go upstairs. At that point, all he knows is that  
10 they are trying to go from downstairs to upstairs.  
11 He doesn't know which floor specifically.  
12 Q So they reach your position?  
13 A That's correct.  
14 Q And then you would escort them if needed?  
15 A Depending on who it is --  
16 Q Okay.  
17 A -- and the circumstances. And sometimes  
18 they would come into the usher's office and say I'm  
19 here for what purpose and/or to see the President or  
20 whatever. Depending on what our direction was, we  
21 might take them up immediately, we might place a  
22 phone call to check to see if the member of the First

1 Family was expecting them, if it was somebody who  
2 routinely went up and down, you know, of course, then  
3 we would just go on.  
4 Q And this information would be entered into  
5 your log?  
6 A That's correct.  
7 Q Let me show you now a document labeled  
8 S020017 and it is, and let me ask you to take a look  
9 at that.  
10 A Okay.  
11 Q And can you tell me what it looks like, is  
12 that a copy -- does that look like a copy of your  
13 White House usher's log?  
14 A Uh-huh, it is.  
15 Q And it is a printout of that log from the  
16 computer?  
17 A Yes. It looks like somebody has  
18 handwritten in some things that were probably there.  
19 Q That particular copy has been redacted by  
20 the White House in order to delete some of the names  
21 of particular persons and inserted with more generic  
22 descriptions and that has been the representation

1 that the White House has given to us. Hence the  
2 whiteout and the insertion of the handwriting.

3 A Okay.

4 Q That is for August 2nd, 1995?

5 A It says "August the 2nd" and I'm assuming  
6 that it is 1995.

7 Q Okay. Yes. Again, let me represent to you  
8 that is indeed from 1995; at least, that has been  
9 represented to us by the White House. Can you  
10 identify -- can you verify that Ms. Feinman was one  
11 of the house guests that night?

12 A Yes, she is listed as a house guest.

13 Q And the format of this is in chronological  
14 order, the entries and exits to the second and third  
15 floor of the White House with the house guest listed  
16 at the bottom?

17 A That's correct.

18 Q Now, you mentioned that besides Ms. Feinman  
19 and Ms. Selatin, there was a third person. Could you  
20 make a visual inspection of that and see if she is on  
21 there?

22 A No, she is not.

---

1 Q Okay.

2 A I could go back through the log certainly  
3 and pick out the names and when I saw them I would  
4 recognize it.

5 Q Would it be Debbie F-a-r-r-a-r?

6 A Farrar?

7 Q Farrar.

8 A It could be. I don't think so. That is  
9 not the one that I'm thinking of.

10 Q Okay. Great. Let me show you another day  
11 that shows Ms. --

12 A To maybe clarify a little bit.

13 Q Okay.

14 A By not being in the shift rotation or being  
15 the usher on duty, normally as I used to be,  
16 certainly, I didn't come in contact with some of  
17 these people on a regular basis.

18 Q Okay.

19 A So to be honest with you, I don't remember  
20 their names as well as I should.

21 Q Do you know, by the way, if Ms. Dickey was  
22 helping Mrs. Clinton with the book?

1 A Not specifically, no.

2 Q Not specifically. Okay. Okay. So let's,  
3 just again, I want to be extremely thorough so I want  
4 to ask your patience in this. You testified that you  
5 do not recall any specific request in order to move  
6 any books or materials with respect to -- with  
7 respect to the construction work related to the  
8 closet in 323.

9 A That's correct.

10 Q Likewise with respect to the patching of  
11 the ceiling in 319-A?

12 A I don't recall anything specific.

13 Q You surmised that you may have moved the  
14 table but in order to gain access?

15 A Just to have a working area.

16 Q A working area.

17 A It is quite likely that the drop cloths  
18 would have been put on the floor or on top of things.

19 Q But you don't remember specifically if that  
20 was done or if the drop cloths were put there?

21 A I'm sure the drop cloths were put in  
22 there. That is a requirement. And I recall

1 certainly several times being in that room where  
2 things were drop cloth protected. Floor, table,  
3 there might have even been one over the front of the  
4 video.

5 Q I'm interested now in the period prior to  
6 the First Lady leaving on vacation.

7 A Okay.

8 Q The same recollection?

9 A I think so, yes, sir.

10 Q And this would be consistent with the work  
11 of -- the plaster work on the ceiling?

12 A Among other things in the ceiling, yes.

13 Q Okay. Great.

14 A The problems that we had with the ceiling  
15 were not confined to 319-A.

16 Q Oh, okay.

17 A It is a problem that we had throughout the  
18 third floor because of all the activity in the attic.

19 Q Because of the walking along the attic?

20 A That's correct. We had a lot of problems  
21 with the central corridor because of that.

22 Q But we know -- but you know that there was



1 some work done in 319-A in light of -- well, in light  
2 of the document that I showed you earlier with  
3 respect to Callas patching in the ceiling in 319-A?

4 A Yes.

5 Q And in light of Ms. Marshall's report to  
6 you?

7 A Yes, sir.

8 Q But you do not remember any specific  
9 recollection as to anybody requesting that you move  
10 materials or books out of the way in order to get to  
11 a particular job site?

12 A In 319-A?

13 Q In 319-A.

14 A That's correct.

15 Q And likewise in 323?

16 A That's correct.

17 Q And in 321?

18 A Correct.

19 Q Except for the TV and VCR unit which is  
20 done on a daily basis basically?

21 A Well, periodically.

22 Q Whenever access is needed?

1 A Into the corner, that's correct.

2 Q That's what I meant by "daily." I didn't  
3 mean --

4 A And exercise equipment perhaps in that room  
5 as well. Sometimes we needed to shift some of the  
6 exercise equipment to allow maybe a piece of ductwork  
7 to maneuver into that opening.

8 Q Okay. And you stated that the escort  
9 officer may, be it from the Secret Service or from  
10 your staff, one of the job is to monitor to see that  
11 nothing is left at the work area?

12 A That's the Secret Service's job and not our  
13 staff's. We don't -- we stay away from security.

14 Q Okay. Great. But your staff definitely  
15 plays an escort role?

16 A That's correct.

17 Q And part of the escort role is to make sure  
18 that the workers confine themselves within the work  
19 space and not touch or disturb other materials?

20 A That's correct.

21 Q And when that happens, they would advise  
22 the construction worker not to do so?

- 1 A That's correct.
- 2 Q And what happens if it -- what are the --
- 3 what other procedures can you take? What if a worker
- 4 deliberately infringes your instruction not to -- not
- 5 to disturb the -- not to disturb the materials and
- 6 furniture?
- 7 A He would be removed from the job site.
- 8 Q He would be removed from the job site?
- 9 A Yes, sir.
- 10 Q And that's an explicit understanding with
- 11 the administration of the contract?
- 12 A Yes.
- 13 Q Okay.
- 14 A If it was an accident, if you will,
- 15 certainly the first step, and this has happened, I
- 16 don't remember any specifics in this project, but the
- 17 person would be reminded of their responsibility in
- 18 that regard.
- 19 Q Okay. Even if it is an accident?
- 20 A Even if it was an accident, because we are
- 21 asking them to be careful about this sort of thing.
- 22 Q If it was deliberate, then you would remove

- 1 the person from the project?
- 2 A That's correct.
- 3 Q And talk to the contractor and make sure
- 4 that he or she does not return?
- 5 A That's correct.
- 6 Q And would this type of action be taken by
- 7 you?
- 8 A Or the National Park Service.
- 9 Q Or the National Park Service.
- 10 A If that sort of thing occurred, they would
- 11 certainly advise me that it had.
- 12 Q Did anything like that occur, to the best
- 13 of your knowledge, in July and August of 1995?
- 14 A No, sir.
- 15 Q How about in 1995?
- 16 A Period?
- 17 Q More generally.
- 18 A No, sir.
- 19 Q Okay. There were accidents but none of
- 20 this removal, deliberate transgression of your
- 21 instructions?
- 22 A Correct.

1 Q Okay. And none was reported to you by the  
2 National Park Service?

3 A That's correct.

4 Q Or a member of your staff?

5 A Correct.

6 Q Let me ask you, if to look at what I would  
7 now hand you, which is a pile of paper of  
8 approximately 1 inch thick, measuring 11-by-17  
9 inches, cover page of which is number DKS N 028928 and  
10 ask you to just take a cursory look at that.

11 A Yes.

12 Q Now, having this material in front of you,  
13 what happens if something like this was lying within  
14 my work space and I was a construction worker, would  
15 I be able to pick it up and throw it aside or is this  
16 something that I would request my escort to move?

17 A If something like this were lying, they  
18 would ask that it be moved.

19 Q Okay.

20 A But again, if we had done our homework,  
21 there would not be something like this, of course.

22 Q Exactly, but in the event hypothetically

1 that something like this was in the workplace?

2 A Generally, the contractor is not given  
3 enough time when he goes into a space where he would  
4 be able to study something.

5 Q Okay.

6 A They are coming in and they are carrying  
7 tools and things. So if something was lying there,  
8 they might see something is lying there, but they  
9 wouldn't know what it was or anything.

10 Q So what does he do when he sees something  
11 lying there?

12 A If it was in his way, he would state that,  
13 you know, hey, we need to have those things moved.

14 Q He wouldn't take this sheet of 11-by-17  
15 paper and just put it aside?

16 A No, sir.

17 Q He wouldn't touch it?

18 A Yes.

19 Q And that was consistent with your  
20 instructions?

21 A That's correct.

22 Q That is your procedure and indeed the

1 practice for the construction workers?

2 A Right.

3 Q Now, let me ask you, have you ever seen a  
4 pile of documents measuring 11-by-17 that looks  
5 something like that in the White House in July and  
6 August of 1995?

7 A Not that I know of, but I've seen a lot of  
8 pile of papers and things.

9 Q This size?

10 A I can't recall ever seeing anything  
11 especially of this size. Have I seen piles of  
12 things? Sure. But not -- probably not -- if I've  
13 seen something bundled like this in this shape and  
14 size, would I honestly remember? Probably not.

15 Q Okay. So you have no specific  
16 recollection --

17 A No, sir, I do not.

18 Q -- of anything like this?

19 Do you recall if anybody asked or somebody  
20 told you that somebody asked; that is, a member of  
21 your staff said somebody asked me to remove something  
22 and that resembled something like this?

1 A No, I had no knowledge of that.

2 Q Okay. In July or August of 1995 in -- I  
3 mean, to complete my question, in July and August of  
4 1995?

5 A Correct.

6 Q And since then?

7 A No, I don't know of anybody being asked to  
8 remove anything like this.

9 Q Have you ever seen a pile of paper like  
10 this? Again, 1 inch of 11-by-17 apparently  
11 photocopies of some computer printouts in the book  
12 room?

13 A Have I ever seen something like this in the  
14 book room?

15 Q Yes, sir.

16 A No.

17 Q In room 323?

18 A No, sir.

19 Q In the exercise room?

20 A No.

21 Q In room 319?

22 A No, sir.



1 Q All right. I think you answered previously  
2 to my more general question within the White House.  
3 I just wanted to focus your attention more directly.

4 A Okay.

5 Q And as far as you are aware, none of the  
6 construction workers asked for something like this to  
7 be removed?

8 A Correct.

9 Q And I take it, then, just to get the flip  
10 side of the story out, none of the construction  
11 workers would have placed something like this in the  
12 White House?

13 A I couldn't answer that. I wouldn't think  
14 so. I certainly would have no reason to believe that  
15 they would.

16 Q If a construction worker had placed  
17 something like this in the White House, would that be  
18 cause for concern for the Secret Service escort?

19 A Absolutely.

20 Q Because they are not supposed to place  
21 anything --

22 A That's correct.

1 Q -- in the White House?

2 A That's correct.

3 Q Let alone a sheet of 11-by-17 paper?

4 A I think that would be a very unusual thing  
5 for a construction worker to be carrying.

6 Q Well, then in that light, have you ever  
7 seen a construction worker in the White House  
8 carrying something like this?

9 A No, sir.

10 Q That is again encompassed by your earlier,  
11 more general answer that construction -- that you  
12 have never seen something like this in the White  
13 House?

14 A Correct.

15 Q Have you ever seen a member of your staff  
16 carrying something like this?

17 A No, sir.

18 Q I take it your staff is under the same duty  
19 and procedure as your construction contractors, so  
20 would they -- would they leave -- would they carry  
21 something in and leave it somewhere in the White  
22 House --

- 1 A Only if asked to do so.  
2 Q -- without instructions?  
3 A What?  
4 Q Without -- absent any instruction to do so,  
5 would they would they carry something like this in  
6 and leave it in the White House?  
7 A No.  
8 Q That would certainly be against the  
9 procedure and practice of your staff?  
10 A That's correct.  
11 Q Would there be cause for termination if  
12 they did so?  
13 A If they left something they shouldn't have  
14 in the family's living quarters?  
15 Q Yes, deliberately.  
16 A Yes, I think certainly. That is very  
17 vague.  
18 Q Yes, very hypothetical.  
19 A Never had that instance with our staff,  
20 so --  
21 Q Right, right, right. But certainly the  
22 understanding is that you don't take anything, you

- 1 don't leave anything --  
2 A Absolutely.  
3 Q -- in the family's living quarters?  
4 A That would be a very serious situation if  
5 that were to occur.  
6 Q And the same thing, of course, with the  
7 construction workers, they would be asked -- you  
8 would ask that they be removed from the job site?  
9 A Absolutely.  
10 Q And to the best of your knowledge and  
11 recollection, nothing like this ever happened?  
12 A That's correct.  
13 Q With respect to this record or anything  
14 else within the last year?  
15 A That's correct.  
16 MR. DINH: Okay. I have nothing further.  
17 MR. IVEY: Let me pick up where he left  
18 off. What is the exhibit number on those documents  
19 there?  
20 MR. DINH: DKS N 28928 which is the first  
21 page that I read earlier. The last page, and I  
22 presume this is continuous, the last page is DKS N

1 029043.

2 MR. IVEY: And I take it those are the Rose  
3 law firm billing records?

4 MR. DINH: Yes, they are.

5 EXAMINATION

6 BY MR. IVEY:

7 Q And you've never seen those law firm  
8 billing records before today?

9 A That's correct. I heard about them  
10 certainly.

11 MR. DINH: Well, feast your eyes.

12 BY MR. IVEY:

13 Q Well, I imagine that you've heard quite a  
14 bit about them.

15 A Yes.

16 Q Let me ask you this, with respect to the  
17 room that we were discussing, 319-A --

18 A Yes, sir.

19 Q -- there is a line on this diagram that  
20 sort of bisects what looks like to be the entire area  
21 of 319-A?

22 A That's correct.

1 Q Would my understanding be correct that that  
2 is not a wall, that is just a line that is part of  
3 the diagram?

4 A It is a center line. It is a center line  
5 that runs east and west and center line that runs  
6 north and south of the drawing.

7 Q So this is the center line for the entire  
8 floor of the White House?

9 A That's correct.

10 Q So this area where we have got 319-A on the  
11 diagram is only one room?

12 A That's correct.

13 Q Okay.

14 A And I believe at one time it was two.  
15 That's why there are two doors here.

16 Q Uh-huh.

17 A And this was prior to my arriving at the  
18 White House, but my guess would be at one time there  
19 was a wall here and that's why there are two doors.

20 Q Okay. And this rectangle that you have  
21 drawn here is the table?

22 A Uh-huh.

- 1 Q Is in that room?
- 2 A Yes.
- 3 Q And could you write "table" on there?
- 4 A Again, there have been different
- 5 configurations of tables in there. At times there
- 6 have been a single table and at times there have been
- 7 a couple of smaller tables and there is one might be
- 8 even perpendicular to the other depending on the
- 9 activities that the room was being used for.
- 10 Q Now when Mr. Dinh was questioning you, you
- 11 drew a circle just above the table. By the way, is
- 12 this north heading in this direction?
- 13 A That is south.
- 14 Q South. Heading towards the sun room. So
- 15 south of the table you drew a little circle. What
- 16 did you mean to signify by that?
- 17 A At least on several occasions when I looked
- 18 in or walked into that room, I believe that was the
- 19 location of a computer in the room and I believe it
- 20 was on a cart and it may have been on a folding
- 21 table. I think at another time it may have been
- 22 closer to the wall. Again, that room was pretty

- 1 dynamic at times in terms of the tables and things
- 2 going in and out and all of that.
- 3 Q So things moved in quite a bit in there?
- 4 A From time to time from usage. If they had
- 5 a lot of things they couldn't put on one table, they
- 6 would put in another table in there.
- 7 Q Now, you also said earlier that the
- 8 rectangle table on 319-A of the diagram was sometimes
- 9 covered with a lot of things?
- 10 A Correct.
- 11 Q And is it correct that part of the usher's
- 12 privacy concern extends to not reading documents that
- 13 you might come across?
- 14 A Yes, sir; that's correct.
- 15 Q So during those period, when you saw a lot
- 16 of things on a table in 319-A, would it be fair to
- 17 say that you didn't particularly note or study what
- 18 items may have been on the table?
- 19 A That's correct.
- 20 Q So you could sort of give us a generic
- 21 sense of books, magazines, but if we wanted to get
- 22 specific about what might have been on the documents



1 or items that were on the table, you wouldn't be able  
2 to identify them?

3 A That's correct.

4 Q Now, I also recognize that this has been a  
5 few months ago.

6 A Sure has.

7 Q So recollection might be difficult, anyway,  
8 but even if we had spoken to you the day after one of  
9 these days in late July or early August, you still  
10 wouldn't have known what was on the table because you  
11 don't study what is on the table?

12 A That's correct, unless there had been  
13 something that would have happened. If somebody had  
14 bumped a table and knocked something off and I  
15 happened to pick it up and put it back or if I had  
16 been asked to carry something up there that was  
17 unusual, meaning if it was something abnormally  
18 heavy, an object or a picture that was abnormally  
19 large that I had to stand next to the table, I might  
20 have remembered that the next day, certainly. But  
21 after a few days it is routine type of thing that we  
22 would do periodically.

1 Q So would it be fair to say then that the  
2 fact that you don't recognize those Rose law firm  
3 billing records isn't particularly connected to  
4 whether they were on the table or not or when they  
5 were on that table or not? You wouldn't have been  
6 looking to see what the documents were anyway?

7 A That's correct, I would not.

8 Q And would that also be true for anybody  
9 else working in the usher's office?

10 A I think so. Certainly that is the way that  
11 we've been taught. If we see something generally you  
12 glance at it certainly, but you don't read it. And  
13 the only reason that I say that we might glance at it  
14 would be if this is -- one thing that I do certainly  
15 if there is, by chance, something that might be a  
16 classified document that has been left out,  
17 particularly if it is an area where a contractor is  
18 going to come into sometimes, I would go in prior to  
19 that, or if I would walk into an area that wasn't  
20 related or something, if there is some paper laying  
21 out like by itself I probably would glance, but that  
22 would be stamped or something.

1 Q Stamped with the word "classified"?

2 A Yeah, or "secret" or whatever. And those  
3 instances have only occurred a couple of times in 10  
4 years since I've been there. It is not a routine  
5 type of thing.

6 Q Now, you also mentioned that, for example,  
7 if you saw a photograph or something that visually  
8 struck you as perhaps private, you might move that or  
9 cover that?

10 A Might turn it over --

11 Q Okay.

12 A -- prior to the contractor coming in.

13 Q And again as to protect the privacy of the  
14 First Family?

15 A That's correct.

16 Q Now, take a look at the document that  
17 Mr. Dinh provided for you that you now know are the  
18 Rose law firm billing records.

19 A Yes.

20 Q Is there anything about those that would  
21 jump out to you as private?

22 A No, not from a distance. And if I was

1 walking by a table and saw that, I probably would  
2 just keep on walking by it.

3 Q And they don't have a secret or classified  
4 stamp that would draw your attention?

5 A No, sir. If that was sitting on a table by  
6 itself, that would -- certainly I would look at it  
7 from a distance if it particularly was an area where  
8 I normally wouldn't see something like that. But if  
9 it was in area where I would expected to see things,  
10 I wouldn't -- that would not create any unusual  
11 attention.

12 Q So let's say hypothetically that the table  
13 in 319-A was entirely clear except for those billing  
14 records. Would that have caught your attention?

15 A I think I would have noticed there was  
16 something on the table, sure.

17 Q And would you have noticed what they were?

18 A Probably not, unless I needed to have that  
19 area for somebody to work. If I was just, for  
20 instance, walking through to get to the exercise  
21 room, I would not normally walk over and look at it.

22 Q And if the table had been covered with a

1 number of documents and books and magazine clips and  
2 the like --

3 A Right.

4 Q -- there would have been no reason for you  
5 to notice any of the particulars?

6 A That's correct.

7 Q Okay. Now, you testified earlier that you  
8 saw a lot of papers piled up on this table and you  
9 didn't necessarily recall specifics about the papers  
10 that were there. Now, I just want to be clear  
11 because sometimes if you say I don't remember seeing  
12 something, you know, an inference can be drawn one  
13 way or another.

14 Would it be fair to say that you don't  
15 recall whether or not those documents were on that  
16 table one way or another at any point?

17 A I think it would be fair to say that I have  
18 never seen these documents before today, knowing what  
19 they were.

20 Q Okay.

21 A Could there have been a pile of documents  
22 that looked like this that I have seen before? I

1 guess. Again, I very rarely would look at that  
2 specific thing. It would be more that I know that  
3 there was something on the table. And if it was a  
4 table full of lots of things, that's the way that it  
5 would register with me as a table full of a lot of  
6 things and I would keep on going.

7 Q Now, Mr. Dinh also asked you, I believe, if  
8 documents like that had been moved or if there had  
9 been a request to move documents like that by one of  
10 the construction workers?

11 A Right.

12 Q And again I think that your answer was  
13 something like "not that I recall," or something like  
14 that?

15 A Not that I know. Certainly I'm not aware  
16 of any request to move documents like that.

17 Q Do you recall what types of requests were  
18 made by the construction -- by the contractors during  
19 that period? And by the period, I mean late July and  
20 early August of 1995.

21 A Okay. The request, 99 percent of the time,  
22 would go from the contractor to the National Park



1 Service since they are the actual project supervisors  
2 to us. Most of the requests would be can you move a  
3 piece of furniture, could you move a table. We need  
4 to get into a certain area, say, later today. Could  
5 we make sure that it is clean; "clean" meaning that  
6 anything fragile is moved out of the way, or anything  
7 that would reduce their ability to get their job done  
8 is out of the way.

9 Q Do you recall any requests in late July or  
10 early August of 1995 with respect to the table in  
11 319-A?

12 A No, I don't recall a specific request for  
13 that.

14 Q During the time that the work was being  
15 done in that area through 1995 in that southwestern  
16 corner, I guess, of the White House?

17 A Yes, sir. The exercise area?

18 Q Yes. How frequently did you come up to  
19 that part of the residence?

20 A Prior to the family departing, once every  
21 couple of days. It really would depend on the type  
22 of work being done and where. Prior to the family

1 leaving, most of the work occurred in the attic above  
2 it and certainly in many of the other areas of the  
3 building.

4 Since we are dealing with just this area  
5 here, most of the work prior to their leaving was in  
6 the attic right above that area or through the access  
7 hatch in the promenade.

8 Q Now, you would come up every few days. Is  
9 there an intermediate level of either management or  
10 supervision between you and the contractors that are  
11 actually doing the work in that area?

12 A The National Park Service, but there is no  
13 one between the National Park Service and myself.

14 Q So it would go you, the National Park  
15 Service, and then the contractor?

16 A That's correct. One in three days is  
17 strictly an estimation.

18 Q Sure.

19 A During part of that time, I believe I  
20 mentioned that I was pushing to try to accomplish as  
21 much work as we possibly could because I was aware of  
22 what we had to accomplish in August was extremely



1 ambitious. And it involved having to have heating  
2 and cooling for the rest of the building when the  
3 family came back and it was pretty critical in my  
4 mind.

5 Because of that we had to intrude,  
6 certainly from a noise standpoint, and to a certain  
7 extent, visually more so into the First Family's life  
8 than we normally would do so. And because of that, I  
9 tried to spend and concentrate my time on minimizing  
10 those impacts. And this area was not a great  
11 consequence in terms of the overall scheme of what we  
12 had to do workwise. The attic was probably more  
13 critical at that time, so consequently, I didn't  
14 spend a lot of time going in there.

15 On the other hand, certainly knowing that  
16 Mrs. Clinton used that area, noise was a major  
17 concern. We were trying to work with her only being  
18 separated from some of the workers by a plastic  
19 ceiling. Yet, the work was so critical and timely  
20 that we had to do that. Normally we wouldn't do  
21 that. Normally we would wait until the First Lady  
22 was not there.

1 So to answer your question, certainly I was  
2 up there once every couple or two or three days. In  
3 general, I would also go up in response to a  
4 specific -- someone hearing noise or needing to do  
5 work in the area. Do you think that we could do it  
6 and not disturb somebody? I might go up and I might  
7 listen, say, out in the hallway and have somebody  
8 drill a hole or something like that.

9 Q Now, with respect to the request to move  
10 furniture or, you know, papers, would that be  
11 something that would rise up to your level?

12 A Generally it would be the Park Service  
13 would call the usher's office, and whoever the duty  
14 officer was, they would take care of it. If I  
15 happened to be at the time out, where the  
16 construction was going on, out in my office or out in  
17 another part of the building, they would ask me.  
18 Quite often I would pick up the phone and call direct  
19 to our operations division.

20 Q Is there any type of log that would record  
21 those types of calls?

22 A No, sir. No, there were too many

1 occurrences.

2 Q So during the course of the day, you know,  
3 on a large scale project or work that might be done,  
4 you might receive numerous requests?

5 A Oh, absolutely.

6 Q And it would be burdensome to write them  
7 all down and, I suppose from your perspective, not  
8 particularly useful to write them all down?

9 A That's correct.

10 Q Now, during that period, how many  
11 contractors would have been working in that southwest  
12 area of the White House?

13 A During this two-month period?

14 Q Yes, late July and early August.

15 A So a month period?

16 Q Yes.

17 A Well, we could take a look at the work  
18 log. My guess would be during that month there would  
19 be several people from each sub that would have  
20 needed to get through that area certainly to the  
21 promenade, so a dozen, 15. It wouldn't necessarily  
22 be the same person or persons each day. The

1 subcontractors have a team of people and some days  
2 they might have more personnel on-site than other  
3 days because we were again, trying to accomplish  
4 things in different areas at same time.

5 So it is quite conceivable that, for  
6 instance, if two people came up on Wednesday, it  
7 might not be the same two people that came up on  
8 Thursday, although generally you want to keep a  
9 continuity of the work. I think a dozen to 15 people  
10 would be a reasonable guess.

11 Q Now, what about residence -- I guess it was  
12 residence staff. I'm not too familiar with the  
13 lexicon of people over there at the White House.

14 A Okay.

15 Q But what types of people would have access  
16 to that area? We said about 12 to 15 contractors on  
17 a given day.

18 A That's kind of a guess on my part.

19 Q I recognize it is an estimate and not --

20 A It is highly dependent on the type of work  
21 that they were doing.

22 Q Sure.

1 A But in general terms, I think that is  
2 pretty accurate. And again we are talking about this  
3 corner?

4 Q Yes, the southwest corner.

5 A In terms of our staff, housekeeping  
6 certainly would have a routine basis to be in there  
7 every day or virtually every day. Some of our  
8 maintenance crews, our engineers, electricians.  
9 Members of the usher's office if we had to go look at  
10 something and bring something up.

11 And when I say "go look at something," when  
12 a member of our staff calls and says I want you to  
13 come look at this, whether it is a tablecloth that is  
14 torn or a crack in the ceiling, or whatever it might  
15 be.

16 Butlers also have required access to 319  
17 which is where some of the tablecloths and all are  
18 stored. Our florists perhaps as well might go to  
19 take a look at the color of the tablecloth and try to  
20 relate it to some floral arrangement or some flowers  
21 that we might need to order.

22 Q Now, I'm just on staff too. I don't want

1 to talk about guests yet.

2 A Okay.

3 Q So just routinely all of these groups of  
4 people might have some reason to be up in that area?

5 A That's correct.

6 Q And that would be in part, if I understand  
7 you correctly, because of the work that was being  
8 done in that section of the White House and also  
9 because there are linen items that are --

10 A Stored.

11 Q -- used by the butlers and might have been  
12 used by the florists?

13 A They might come up to take a look at the  
14 color of a different -- different tablecloths and  
15 linens. They are primarily tablecloths used for  
16 functions. And if they were trying to pick up a  
17 color scheme or they needed to order flowers and they  
18 wanted to try to match it to the linen, quite often  
19 they might set up a table in the room that they were  
20 going to do it and might go up and get the tablecloth  
21 and have the butler put it on the table and try an  
22 arrangement to see how the colors worked together,



1 and that sort of thing.

2 Q Now, with the exception of the contractors,  
3 the butlers, florists, housekeeping, maintenance,  
4 were these all people that would work under you?

5 A Yes. Well, on our staff. The shops, the  
6 maintenance shops I directly supervise. The  
7 florists, the butlers, the housekeepers come under  
8 different assistant ushers.

9 Q Okay. Well, how big are those offices?  
10 I'm trying to get a sense of what numbers of people  
11 we are talking about.

12 A Oh, gee. Probably could encompass 30 to 40  
13 people there.

14 Q Okay.

15 A They don't all work at the same time, of  
16 course. Some of them work shift work. Our  
17 electricians and engineers, butlers to a certain  
18 extent work the shift work. We have a morning and  
19 evening person.

20 Q Now, with respect to White House staff, the  
21 President and First Lady's staff, you mentioned  
22 Capricia Marshall?

1 A Yes, sir.

2 Q And Ms. Huber?

3 A Uh-huh.

4 Q Would there be others up there as well?

5 A There certainly could be. If Mrs. Clinton  
6 or the President -- generally it would be  
7 Mrs. Clinton in that area -- was to have a meeting or  
8 needed to have somebody come up to talk to them,  
9 sure.

10 Q Okay. Now, I recognize that you don't  
11 supervise those staffs --

12 A Correct.

13 Q -- but you just bump into them  
14 periodically?

15 A Well, generally we know when they go  
16 upstairs because we may put them on the log. And you  
17 know, kind of coming back to the privacy issue, one  
18 thing that we try to do is keep even staff members  
19 from intruding into the family's life until they are  
20 ready for them. Some staff members would come over  
21 and go right up to the living room because they have  
22 a meeting with them. They might be five minutes



1 early and that might not be what the family wants.  
2 Generally we are that go-between.

3 Most staff stop at our office and say I  
4 have a meeting with the President or I have a meeting  
5 with Mrs. Clinton. And depending on the direction  
6 that we receive, we might immediately take them up or  
7 a member of the usher's office might take them up.  
8 Or if we didn't know about it, which has happened,  
9 and we were concerned that maybe the family wasn't  
10 ready, President and Mrs. wasn't ready, we give them  
11 a call and ask them and say so-and-so is here to see  
12 you, would you like us to take them up.

13 Q And this area through 319-A was sort of a  
14 passageway or transition way in the sense that people  
15 often went through there to get to other rooms in  
16 that southwest section of the White House?

17 A To get to the exercise area and to get to  
18 room 319, yes, sir. The only way to get to 319 is  
19 through 319-A.

20 Q And 319 was the linen and storage area?

21 A Yes, sir. And only way to get to the  
22 exercise area is also through 319-A.

1 Q Now, my understanding is that Ms. Marshall  
2 worked in 319-A on some occasions and maybe not  
3 regularly?

4 A On some occasions, sure, she might help  
5 with, again, all of the things that I call kind of  
6 transition things, you know, books and photographs  
7 and knickknacks and all those things she might do  
8 that on behalf of the First Lady, videotapes, gifts  
9 to Chelsea. There are a lots of things.

10 That kind of was their utility room, if you  
11 will, for a lot of things had to have a starting  
12 point and that was an out-of-the-way place where  
13 things were relatively protected. I mean, they  
14 wouldn't be damaged because there wasn't a lot of  
15 chances of somebody bumping into it.

16 Q Now, I think when she testified previously,  
17 I'll represent to you that she said that on some  
18 occasions when she was working in there, people who  
19 were doing some of the contracting work, or I guess  
20 were butlers or, you know, doing that type of work  
21 would stop and chat with her?

22 A Sure.

1 Q You are aware of that?

2 A Yes, sir. Well, knowing our staff and  
3 knowing her, I'm sure she said hi to people and that  
4 sort of thing. Sure.

5 Q So that doesn't strike you as unusual?

6 A Oh, no, not at all.

7 Q And this room then would not -- it is not  
8 sort of a private area in the sense that some other  
9 parts of the residence might be?

10 A It is not as private, that's correct.

11 Q Now, with respect to the ceiling in 319-A,  
12 you testified a little bit earlier about the plaster  
13 that fell or paint, I guess, a little bit of plaster?

14 A There was a little bit of plaster. It was  
15 enough to scare her is what really happened.

16 Q It fell from the ceiling?

17 A That's correct.

18 Q And you went up and took a look at it?

19 A Yes, sir.

20 Q And your recollection is that it was  
21 sometime in early August or late July?

22 A I don't think it was in August. My guess

1 would be that it was in July.

2 Q July.

3 A And it could have been early July.  
4 Somewhere in that period. Again, other than  
5 Ms. Marshall's reaction, there were other areas that  
6 had been damaged far greater than that in the ceiling  
7 of the third floor. And when it was characterized to  
8 me that, you know, that the ceiling is falling, you  
9 know, obviously I was very concerned. And when I got  
10 up and saw it, I thought this is pretty minor.

11 Q Yeah, compared to what you had expected  
12 when you first heard?

13 A Sure. Exactly.

14 Q But you weren't happy that part of the  
15 ceiling was falling, it raised some concern for you?

16 A Yes, absolutely because it goes back to  
17 what I mentioned, that I was pushing hard to get a  
18 lot of work done. That was one reason that I was  
19 asked to work on this project was that it was falling  
20 behind, and it was asking kind of an extraordinary  
21 tolerance by the First Family. And quite often it  
22 was done through Ms. Marshall, that particularly

1 Mrs. Clinton endure noise while she was trying to  
2 work in her office there. So anything that scared  
3 her, I knew Mrs. Clinton would know about so I was  
4 concerned.

5 Q All right. And you were also concerned  
6 enough to have the people come up and check the  
7 ceiling and make sure that there was no structural  
8 problem?

9 A Up in the attic, that's correct. By  
10 looking at it, I was certain that there wasn't, but I  
11 did that more as a courtesy to make sure that they  
12 knew that they didn't need to be worried, that the  
13 ceiling was not in danger of collapse.

14 Q Had you indicated on here where the piece  
15 of --

16 A I think it was right in this area, in this  
17 corner if I recall correctly. I think there is a  
18 bookcase around here.

19 Q Could you circle that with the red pen?  
20 MR. DINH: That's where the X was earlier.

21 THE WITNESS: Somewhere in here.

22 BY MR. IVEY:

1 Q Now, you mentioned there were other  
2 problems with the ceiling on the third floor?

3 A That's correct.

4 Q Now, I want to focus you to the southwest  
5 corner here. Could you recall other areas where  
6 there may have been problems?

7 A In the southwest corner?

8 Q Yes.

9 A Nothing significant, no. The areas that I  
10 was thinking of was in other portions of the third  
11 floor.

12 Q I had a question. This document S 020135  
13 and S 20136, and on this page the safety comments --  
14 this page being 20136 -- it says "damage to 318-A  
15 ceiling was discovered today. It was probably due to  
16 attic work"?

17 A Uh-huh. 318, 318-A?

18 Q Yeah, that's what got my attention. I  
19 couldn't find 318-A.

20 A My guess would be it would be the closet.

21 Q The closet in room 318-A?

22 A That would be my guess that would be 318.



1 I don't know that for a fact but I don't see any  
2 other designation that could be 318. There is 318,  
3 319.

4 Q So your guess would be that it would be the  
5 closet between 318 and 319-A?

6 A Yes. That's where that duct work had to be  
7 cut in and there was work above that ceiling to tie  
8 it all in as well, so there was -- before that was  
9 required, there would have been duct work run to get  
10 to that point.

11 Q Uh-huh.

12 A So, you know, it is logical that that might  
13 have happened.

14 Q And with respect to fixing the ceiling  
15 above 319-A, or 318-A for that matter --

16 A Uh-huh.

17 Q -- the normal process would be to plaster  
18 it over?

19 A That's correct.

20 Q And I guess you sand it down and let it  
21 dry, or let it dry and then sand it down?

22 A Uh-huh.

1 Q And how long would that process take?

2 A Well, true plaster takes 28 days to cure.  
3 We did not do that. We used a quick-set plaster  
4 which sets up in a matter of a couple of days. We  
5 certainly like to allow about a week before we paint  
6 it, otherwise, at some point in the future, the paint  
7 is going to peel back off. Depending on the area,  
8 you know, we might plaster with the quick-set plaster  
9 and have to paint it a couple of days later simply  
10 because it was a very sensitive area that we had to  
11 restore.

12 I don't remember specifically how quickly  
13 the patches were done when we painted. If it was in  
14 318-A, which we are both assuming was that closet,  
15 that was a very low priority area in my mind so it  
16 could have been months before we painted it.

17 Q And it is a low priority because it is not  
18 part of the living area?

19 A That's correct. It is the chef's closet so  
20 he can endure it.

21 Q S 20167 which is another one of the daily  
22 construction logs, and on here it says "cleaned up



1 319-A"?

2 A Okay.

3 Q There is some comments about 319-A that I  
4 wanted to --

5 A August 19th. Okay. Let's see. The  
6 electrical sub was working in a panel, buzzer panel,  
7 in 319-A that required an enormous amount of work. I  
8 remember this one pretty well because I walked in at  
9 one point and it looked like it was just like  
10 spaghetti coming out of the wall.

11 There is a buzzer system in the White House  
12 that allows an occupant of the room to buzz our  
13 office or the butler's in a couple of different  
14 locations. And because of some of the work -- I  
15 believe it was in the attic -- we had to relocate  
16 some of the conduits that went to that buzzer panel.  
17 And when you do that, you had to pull all of the  
18 conductors out and put them back in. And if I  
19 remember correctly, the wires in there were very old,  
20 about 40 years old probably, and we ended up having  
21 to put in new wire. And it was just, you know, there  
22 was spaghetti all over the floor kind of around that

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1 panel so I think that is what that is referring to.

2 Q And this was done August 18th, 1995?

3 A That's what it indicates, yes, sir.

4 Q Now, where was this -- could you mark on  
5 the diagram where this work was done?

6 A I think that panel, if I recall correctly,  
7 is somewhere on this wall here. It makes sense that  
8 it would be centered. I would think that it would be  
9 over here. It is either over here or over there.  
10 Again I'm sure it is not the center line of the room,  
11 if that makes sense. Somewhere along this west wall.

12 Q So it would be along the wall between  
13 319-A -- either 318-A and 319-A?

14 A That's correct.

15 Q And by "cleaned up," I assume that means  
16 whatever mess might have been made during the  
17 electrical work?

18 A Yes, it says "cleaned up" under H&P, that  
19 is the electrical sub, so they must have made quite a  
20 mess and then they cleaned it up. They normally  
21 would not clean up certainly any plaster debris or  
22 anything like that. That would be one of the other

1 subcontractors.

2 Q So with respect to what happened with the  
3 plaster that fell from the ceiling and the repair  
4 work that was done, have you come across any entries  
5 where it is mentioned in the logs that we've shown  
6 you so far?

7 A As far as the plaster falling?

8 Q Right.

9 A No, I've never see any indication of the  
10 plaster falling.

11 Q And again that would have been, given what  
12 was being done at that time, comparatively minor?

13 A It would have been prior to that day.

14 Q Yes, sir.

15 A Yeah, I would see it as somewhat minor,  
16 although again, the Park Service has been sensitized  
17 to things. They certainly wouldn't put in there  
18 plaster that fell on Ms. Marshall's head, but I would  
19 be surprised that there would not be something in  
20 there about plaster falling or damage to the ceiling  
21 or certainly patching, I believe was indicated, if in  
22 fact that was the same patching and I think that it

1 probably was.

2 I guess having seen it, maybe they thought  
3 it was as minor as I thought it was and maybe didn't  
4 indicate it. Again, we were talking, it was more  
5 paint than plaster. It was chips of paint. The  
6 White House has a leaking roof, that is the only way  
7 to say it. And we have a problem with the peeling of  
8 paint on the third floor ceiling in locations.

9 Q And now, do you recall if the -- if any of  
10 the items if 319-A were covered at all after the  
11 little piece fell from the ceiling?

12 A I think that we did put drop cloths in  
13 there. I think that we might have even put some  
14 sheets over things to protect it from any more debris  
15 coming down. We did that on a number of occasions,  
16 and certainly in various rooms, when we would be  
17 working in the attic above an area and it wasn't  
18 practical to move things out of the way or really  
19 there shouldn't have been anything coming down, but  
20 it was more of a precaution. Certainly other areas  
21 on the third floor in the central corridor where we  
22 had tremendous problems with pieces of paint falling

1 down and we put drop cloths down or sheets over  
2 couches or tables and that sort of thing.

3 Q Do you know if there was any effort to  
4 clean up what had fallen?

5 A Oh, I'm sure there was.

6 Q Okay.

7 A I'm sure it wouldn't have been left there.

8 Q Who would have taken care of that?

9 A Probably housekeeping. That would be the  
10 normal routine. I don't remember, you know,  
11 specifically who cleaned that piece up. My guess  
12 would be that Ms. Marshall probably kept a piece to  
13 show us. And again, you know, I'm trying to remember  
14 this because obviously there is some significance  
15 here.

16 I don't think I was the first person in our  
17 office that she encountered. I'm sure that I found  
18 out about it pretty quickly thereafter, but I don't  
19 think I was the first person she said this is what  
20 happened.

21 Q And your understanding is that she heard  
22 movement up in the attic in 319?

1 A There was a lot of movement in the attic  
2 during the days leading up to that, but that in  
3 itself was not unusual, but something falling on her  
4 was.

5 Q But she contacted you after this?

6 A Yes, at some point, yes.

7 Q Now, let me show you S 20123 which is  
8 another entry in the daily construction log. This  
9 one is dated July 26th, 1995 and here under -- I  
10 guess that name is Callas?

11 A Callas. They do some of the patching and  
12 some of the general work.

13 Q It says "patch 319-A ceiling and 319  
14 wall."

15 A Right.

16 Q That would be -- do you -- would it be your  
17 assumption that this was related to the incident  
18 Ms. Marshall contacted you about?

19 A I think it is quite likely. The timing  
20 would be about correct. I don't remember that we  
21 patched it very promptly after it happened. It could  
22 have been that it happened two days before or it



1 could have been it was two weeks before. It depends  
2 on when we could have gotten in there to patch it but  
3 my guess would be that was when it was.

4 I mentioned earlier that we had done other  
5 work on the ceiling in that room but I'm sure that  
6 was considerably earlier than that. There were two  
7 ceiling diffusers that had to be enlarged so we had  
8 to cut the ceiling back to accommodate those.

9 Q What is a ceiling diffuser?

10 A These are round that diffuse air from the  
11 conditioned air that you are supplying to the room.  
12 Most people would call them an air-conditioning  
13 vent. It is a series of cones that spread the air  
14 out and allows it to mix with the air in the room.

15 Q And those were --

16 A I believe there were two in this room.

17 Q Could you make -- why don't we --

18 A Sure.

19 Q Why don't you do red squares to show where  
20 those are?

21 A You don't want circles because they are  
22 round?

1 Q Squares. We have a circle there already.

2 A Generally -- and I want to say that there  
3 were two at the time. Usually they are in the center  
4 of the room so there would probably be one here.

5 Q So they were, to your recollection,  
6 probably be over the table in the middle of 319 or  
7 sort of nearby?

8 A If the table was off-center like that and  
9 most of the time that I saw it, it was, so you had  
10 relatively free access into this room, to 319. Yeah,  
11 it probably was over the top of the table like that.

12 Q And you put those in -- how high are the  
13 ceilings in this room that we are talking about, to  
14 work on the ceiling?

15 A Probably 9 feet.

16 Q So they would be using ladders obviously?

17 A That's correct. That's correct.

18 Q So would they have moved this table to do  
19 that work?

20 A If the table had been there when they were  
21 doing this work, and my guess would be -- you know,  
22 again, I don't remember when we did this exactly --



1 if there had been a table that large, it would have  
2 been shifted over here. There may not have been a  
3 table in there at that particular time, knowing we  
4 were going to cut the ceiling.

5 That was something that we had planned  
6 quite a bit ahead of time, to do anything that  
7 disruptive. Whenever we would do something like  
8 this, obviously you knock out the existing air supply  
9 so I'm sure that was done when the family was not  
10 there. I'll probably need it again.

11 Q Hopefully that would be it for the diagram,  
12 unless there is other ceiling work that you recall in  
13 319.

14 A No, near the ceiling but not in the  
15 ceiling.

16 Q Where? Would that be one of the side  
17 walls?

18 A Yes.

19 Q Okay.

20 A And that was one we mentioned before, it is  
21 called a return air grill, where a new duct was put  
22 in and penetration cut through the plaster of that

1 wall.

2 Q All right. And with respect to that  
3 patching on the ceiling, the painting that would  
4 have -- would you normally paint over that type of  
5 patching work?

6 A Oh, yeah, we would at some point. Yes, we  
7 would absolutely touch it up. We would just paint  
8 that immediate area there. We wouldn't paint the  
9 whole ceiling.

10 Q Would you use drop cloths?

11 A Yes.

12 Q Now, in room 319-A you mentioned there was  
13 a computer there. Do you recall if there was a  
14 computer that Chelsea used in that room?

15 A No, sir. There was one in 323 that she  
16 used.

17 Q Do you recall what type of paper that it  
18 used?

19 A Paper?

20 Q Uh-huh.

21 A No. I know the brand of computer but I  
22 don't know what type of paper. You mean for the

1 printer?

2 Q Yes.

3 A No.

4 Q Do you recall if it was sort of 8-1/2 by 11  
5 size, or if it might have been bigger?

6 A I don't know. I can't say that I ever  
7 noticed the paper that the printer used.

8 Q So you can't recall one way or another?

9 A Correct.

10 Q Do you recall papers, documents, books,  
11 whatever, being moved into or out of 319-A during the  
12 end of July or beginning of August, or any time in  
13 August of 1995?

14 A Again, I don't remember anything specific.  
15 I mean it was routine to move things in and out, you  
16 know. Our office might be called or asked, or we  
17 would call operations to do it but I don't recall  
18 anything specific.

19 Q And Carolyn Huber asked you about moving  
20 boxes on some occasions?

21 A That's correct.

22 Q But you can't remember specifically one way

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1 or another if it came during this period or not?

2 A That's correct. I would be surprised if,  
3 you know, any request or more than one request didn't  
4 come during that long a period of time because it was  
5 pretty much a routine type of thing.

6 Q Okay. Are there any requests by her that  
7 stick out in your mind during this time period, any  
8 time where there may have been some sense of urgency  
9 in her voice, or concern?

10 A No. Generally when she would call, it  
11 would be, you know, I've got a box or two boxes,  
12 could one of you carry them over to my office. And  
13 sometimes she would say it is heavy, you need more  
14 than one person. A lot of times she didn't and they  
15 would find out that it was heavy. You know, I have,  
16 I think I said, a vague recollection of her during  
17 that time period asking to have some boxes carried to  
18 her offices. And it is not much help, but that is  
19 it. I certainly couldn't tell you that it didn't  
20 happen during that time.

21 Q Now, do you recall if anything was moved  
22 from 323 into 319-A during this period?

1       A    No, sir, I don't. I don't know of  
2 anything.  
3       Q    Okay. You mentioned about the closet in  
4 3 -- is 323 the office where the closet --  
5       A    Yes.  
6       Q    -- was replaced with duct --  
7       A    Yes.  
8       Q    -- work?  
9       And you mentioned that you thought probably  
10 Ms. Marshall had moved the items that were in the  
11 closet?  
12       A    She told me that she was going to. She was  
13 the person that I coordinated having that done upon  
14 the family's departure.  
15       Q    And I believe that you said on August 18th,  
16 when you got into the closet --  
17       A    That was the first time that I could open  
18 it, that it was wasn't locked.  
19       Q    -- that there was nothing inside?  
20       A    Well, that it wasn't locked.  
21       Q    But I mean when you did open it up and  
22 looked, there was nothing left in the closet?

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1       A    That's correct.  
2       Q    Do you know if you went into 319-A that  
3 day?  
4       A    I'm sure that I did.  
5       Q    Do you know if -- or did you notice any  
6 change in --  
7       A    Let me jump back; 319-A or 319?  
8       Q    319-A.  
9       A    Yes, I am sure that I went into 319-A.  
10       Q    Let me ask, did you notice any change in  
11 the stacks or any new documents in 319-A that day?  
12       A    No, not that I can recall. Again, you  
13 know, matter of routine, I don't know that I would  
14 have noticed.  
15       Q    It is understandable but I want to make  
16 sure.  
17       A    I understand. Okay.  
18       Q    You mentioned also that on occasions  
19 Ms. Marshall asked operations to put things into, I  
20 believe you were talking about 319-A?  
21       A    She -- yeah. If something would come in --  
22 a lot of times things coming over to the residence

1 stopped at our office, and quite often it would be  
2 things that Ms. Marshall would have knowledge of and  
3 would say, you know, could you have the guys from  
4 operations put that up in the book room. It could be  
5 a picture. It could be a photographs. It could be a  
6 box. It could be gifts. You know, the full gamut of  
7 things.

8 Q Do you recall any of those types of  
9 requests by Ms. Marshall during late July or August  
10 of 1995?

11 A I don't remember anything specific but I'm  
12 sure that it happened.

13 Q And where would she ask you to put them?

14 A Either it would be the book room or some  
15 things would go into the private living quarters.

16 Q And when she asked you to put something in  
17 the book room, was there any specific place in the  
18 book room, or anyplace in the book room?

19 A Usually it would be put it on the table or  
20 put it on the floor under the table. The book room,  
21 I think, was a -- kind of give you an understanding,  
22 it was an area to try to keep some clutter from

1 getting into their private living quarters. It was,  
2 again, a utility room where you could leave things  
3 for the family's convenience. They could take a look  
4 at something and say, gee, that's a unique picture, I  
5 would really like that to be put in some other room;  
6 or it is nice but we really don't want it, and send  
7 it to the gift unit or something like that.

8 Transition is the best description I guess.

9 Q So your expectation would be during  
10 occasions where you were asked to take something up  
11 to 319-A -- and by "you," I mean someone in the  
12 usher's office -- it probably would have ended up on  
13 or near the table in 319-A?

14 A I think that is fair to say, yes, sir.

15 Q Now, how frequently would Ms. Huber have  
16 been in the room during that area; do you recall?

17 A I think she came over every couple of days  
18 and, you know, as someone of her routine she usually  
19 gets up pretty early in the morning so she was always  
20 there, at times quite early. I don't think that she  
21 was there every day.

22 Q During the time that some of the work was



1 being done in 319-A, did patching of the ceiling and  
2 that sort of thing, where maybe the cloth would have  
3 been put over the table in 319-A, do you recall if  
4 she was present during any of those times, or did she  
5 try not to show up when work was being done?

6 A Oh, no, I don't think that she ever avoided  
7 when work was going on because it was such a  
8 continuous thing. Several occasions I had talked  
9 with her about the work out of courtesy just  
10 primarily to let her know that work was coming,  
11 particularly if it was going to impact 323. Most of  
12 that occurred prior to the time we are talking about  
13 but I tried to maintain a dialogue with her so that  
14 she felt that she was informed and she wasn't  
15 surprised about some of the things that was going on.

16 Q Did you ever discuss -- well, let me back  
17 up. You mentioned the closet in 323 to Ms. Huber --

18 A Yes, I did.

19 Q -- first?

20 A That's correct.

21 Q Okay. And then she said that she didn't --  
22 she didn't think that she had a problem with that in

1 substance but that you should check with  
2 Ms. Marshall?

3 A Mrs. Clinton.

4 Q Mrs. Clinton.

5 A And the reason was, you know, when this  
6 room was remodeled, the intent, at least the way that  
7 I understood it, it was an office that would be used  
8 primarily by Mrs. Huber. And that changed over a  
9 period of time where she used her east wing office  
10 more so, and Mrs. Clinton began to use 323, you  
11 know. And I didn't know it at the time but I'm sure  
12 it was leading up to writing the book. And at the  
13 time that all this was occurring, Mrs. Clinton was  
14 using the office on a far greater percentage of time  
15 than Mrs. Huber was, so that was a logical thing to  
16 do. I didn't really know at the time who had custody  
17 of some of the areas.

18 I knew that Mrs. Clinton was using that  
19 area certainly. I assumed that Mrs. Huber still did  
20 things in there as well.

21 Q Then you spoke with Ms. Marshall?

22 A Yes, I went to her instead of going

1 directly to Mrs. Clinton.

2 Q And did you ever get any sense that they  
3 didn't want you -- that they had some concerns about  
4 you doing anything to that closet?

5 A No. I think I was reluctant to ask them,  
6 simply because it was, you know, an area that  
7 Mrs. Clinton was using as her office and that was the  
8 only closet in there. And I didn't like the idea of  
9 running what could be noisy duct work down through an  
10 area, again, that she would use and that is a minor  
11 concern.

12 I mean, most duct work isn't behind a  
13 closed door but that was a thought in my mind. I  
14 didn't know how noisy it would be so I had concerns  
15 about even approaching them to ask for that area. So  
16 I didn't sense -- when I approached Capricia about  
17 it, she said, are you sure that you really need to  
18 use it. And I said, yes, we are still exploring the  
19 possibility of other ways, but again, we are reaching  
20 a critical point in the design process and that is  
21 one of the preferred options at this point. And I  
22 asked her, would you ask Mrs. Clinton if she would

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1 consider using it for that purpose.

2 Q Was there ever any inquiry about the other  
3 alternatives that you mentioned?

4 A No, I don't think so. I think that was  
5 more so on my behalf. I was hoping that we wouldn't  
6 have to sacrifice, you know, any space, that we could  
7 tie into things, existing duct work and all, up in  
8 the attic as opposed to coming down into the living  
9 quarters, even if it was just the third floor. The  
10 idea was to minimize the impact.

11 We had asked them the year before to put up  
12 with an incredible amount of demolition in the living  
13 quarters to do other things that had come before this  
14 time period. And the last thing that I wanted to do  
15 was intrude back into their space, let alone  
16 Mrs. Clinton's office area, if you will, but I didn't  
17 have a choice.

18 Q Okay. Now, the people who were working  
19 with Mrs. Clinton during this period on her book --  
20 well, first of all, is this the period that we are  
21 talking about, late July and August of 1995?

22 A I think that she was trying to finish the

1 book, before she finished it, so there was a pretty  
2 intense period that was making it more of a challenge  
3 to try to get some of this work leading up to their  
4 vacation done because, again, we were so concerned  
5 about the noise. I mean, it is noisy work, banging  
6 on duct work and drilling, and that is right above  
7 you if you are trying to concentrate.

8 Q Okay. And the people working with  
9 Mrs. Clinton on this project, would they have been  
10 there during the time some of the ceiling work was  
11 done in 319-A or the electrical work?

12 A I'm sure they were. I don't know if they  
13 were in the room when that specific event occurred,  
14 but during that time frame, yes, they were.

15 Q But there was some overlap?

16 A Yes, I'm sure they could tell you about  
17 noises above and all of that.

18 Q And did they go to other rooms when the  
19 work was being done or how did that work?

20 A Well, actually at one point -- and I don't  
21 know if this was during this period -- certainly at  
22 times I think they might move, you know, into the

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1 central corridor or might have gone up to the  
2 solarium just as a change of pace, to get out of the  
3 room. Most of the time I think they were in 319-A.

4 Q And you said Mrs. Clinton spent most of her  
5 time in 323?

6 A Yes, sir.

7 Q And on occasion she came to 319-A but not  
8 much?

9 A I had seen her in there before, talking to  
10 one of the ladies in there, talking about the book.  
11 I seen her more than one time, maybe on a couple of  
12 occasions, but most of the time when I would come  
13 upstairs, you know, if she was up there working on  
14 it, she would be in 323. Probably 95 percent of the  
15 time, if I were to guess about the percentage of the  
16 time.

17 Q And the people who were working on the  
18 book, were they working on the table in the middle of  
19 319-A, or were they using something else?

20 A I think that we put some other folding  
21 tables in there.

22 Q So they had separate areas that they used?



1       A    Yes, I think there was a computer on a cart  
2 and I believe that there was one or two other small  
3 folding tables. The big folding table might have  
4 even been taken out. There have been different  
5 configurations in there depending on where it was.

6       Q    So you are not sure if the table that is  
7 drawn on the diagram was there during the period when  
8 these women were working on it?

9       A    I'm not positive. But the time period we  
10 are talking about, I think certainly during the  
11 incident with the plaster, I think certainly there  
12 was one table like that. There might have been  
13 another little table pushed over in the corner  
14 someplace, maybe.

15      Q    Okay. Do you recall Mrs. Clinton working  
16 in that room, 319-A I mean?

17      A    No, I think the only time I ever saw her  
18 she was standing and talking to somebody.

19      Q    So it would be your sense that she would  
20 come in to maybe discuss something briefly and then  
21 went back to 323?

22      A    Yes. I probably saw her a couple of

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1   times. And unless I had a reason to talk to her, I  
2 wouldn't intrude, and certainly I'm not going to  
3 stand there and look at her.

4           MR. IVEY: Let's go off the record for a  
5 second.

6           (Discussion off the record.)

7           MR. IVEY: Back on. Yes, just a few  
8 follow-up questions or wrap-up questions.

9           BY MR. IVEY:

10      Q    How long was the covering over the  
11 furniture in 319-A, do you recall?

12      A    No. I -- we would put coverings over  
13 furniture on an as-needed basis. And when the work  
14 was concluded, I would say that it would be removed,  
15 and I really don't remember specifically of things  
16 being covered during that time frame. I'm sure that  
17 things were. You know, in our normal protection  
18 mode, we would do that but it would be like a day.  
19 You wouldn't leave something covered for a number of  
20 days.

21      Q    Well, let me rephrase it this way. In  
22 319-A, do you know if items were covered for an



1 extended period of time, or would it have been a  
2 shorter period of time?

3 A Normally I would say that it would be a  
4 relatively short time unless it occurred after the  
5 family left for vacation and then there would be no  
6 necessity to remove things.

7 Q So you are not sure?

8 A That's correct.

9 MR. IVEY: I have no further questions at  
10 this time.

11 MR. DINH: I have just a couple of  
12 questions and I thank you for bearing with us.

13 EXAMINATION (Continued)

14 BY MR. DINH:

15 Q Let's just start with the drop cloth that  
16 Mr. Ivey had asked you about. You said that you had  
17 no specific recollection of seeing cloth -- the room  
18 covered during this period although that would be  
19 your normal procedure, expected procedure?

20 A That's correct. I would say that I'm sure  
21 that it did happen, but I don't remember specifically  
22 when or what.

1 Q We established that, on July 26th, Callas  
2 did some plaster work on the ceiling?

3 A That's correct.

4 Q It would be a pretty dumb plasterer to not  
5 to put down a drop cloth in order to catch the stray  
6 plaster?

7 A Right.

8 Q Because that may go on the books and  
9 memorabilia and they may be valuable, and in any  
10 event, you don't want to disturb them?

11 A That's correct.

12 Q So it would be safe to say that the drop  
13 cloth was there on July 26th as Callas was plastering  
14 the materials?

15 A That's correct.

16 Q Now, you said that in making that  
17 assumption, even though you had no personal  
18 observation on it, it would be used on an as-needed  
19 basis?

20 A Yes.

21 Q July 26th is before the First Lady left on  
22 vacation; is that correct?

1 A That's correct.

2 Q So as-needed that is when they needed in  
3 order to plaster, while they're plastering, obviously  
4 it would be there?

5 A That's correct.

6 Q And when they were done, it would be  
7 removed?

8 A At the end of that task, it would be  
9 removed, that's correct.

10 Q And we established earlier that it would  
11 take about an hour or maybe two or if it was really  
12 large, three, but somewhere around no more than a  
13 couple of hours?

14 A For that patch?

15 Q For that particular patching job.

16 A That's correct.

17 Q Okay. So at most a drop cloth would not be  
18 there for more than three hours?

19 A For that specific job?

20 Q For that specific task.

21 A That's correct.

22 Q Now, before I go on, let me just ask you

1 regarding the two diffusers that you talked about,  
2 the more major project?

3 A Yes, sir.

4 Q Now, you talked about earlier -- before  
5 that line of questioning by Mr. Ivey, you said that  
6 you would have -- you were sure that was done  
7 considerably earlier?

8 A Yes.

9 Q Now, can you tell me how much earlier?

10 A My guess would have been probably a year  
11 before.

12 Q So July 1994?

13 A That would be my guess.

14 Q And that, of course, is a much more major  
15 project, you have to cut up the ceiling?

16 A Correct.

17 Q And so you need ladders to get up there in  
18 order to cut up the ceiling and replace the diffuser?

19 A That's correct.

20 Q So you are certain that that work did not  
21 occur in the relevant period; that is, late  
22 July/early August?

1 A That's correct.

2 Q Okay. I just wanted to be clear on that.

3 You mentioned earlier that on August -- on August  
4 18th, 1995, that is the day that work commenced on  
5 the work in the closet in 319 -- 323?

6 A That's correct.

7 Q And that's the day that you went in and  
8 checked the closet and it was empty. And that's when  
9 you gave the go ahead for Callas to start --

10 A The demolition.

11 Q -- the demolition of the floor and ceiling?

12 A That's correct.

13 Q And of course, that's when you discovered  
14 asbestos, and hence, the decontamination unit was  
15 started?

16 A That's correct.

17 Q And Mr. Ivey asked and said -- asked you  
18 whether you went into 319-A --

19 A Yes.

20 Q -- on that day and you said that you were  
21 sure that you did. Why were you so sure?

22 A Because I was all over that area.

1 Q Because that was one of the first major --  
2 the first days of construction after the First Lady  
3 and the First Family left?

4 A Right. I'm sure that in the first couple  
5 of days after the family left, I was in virtually  
6 every room, certainly every room that there was any  
7 activity going on on the second and third floor.

8 Q And Mr. Ivey had said earlier that H&P had  
9 noted on -- one of the documents reflected that H&P  
10 was splicing wire and cutting up buzzers and stuff  
11 like that on 8/18?

12 A Yes.

13 Q And so that was the day that you saw the  
14 spaghetti coming out of the wall?

15 A That's correct.

16 Q But that was after the First Lady and the  
17 First Family left for vacation?

18 A That's correct.

19 Q Because they left on 8/15?

20 A The 15th, that's correct, sir.

21 Q Okay. Now, you mentioned some of the  
22 people who worked with Mrs. Clinton on the book at

1 times moved their location; that is, for a change in  
 2 atmosphere they may have moved into the sun room,  
 3 which I presume is a fairly hospitable room being  
 4 covered by glass?

5 A There is glass around it, yeah.

6 Q Okay.

7 A I think they did.

8 Q Okay.

9 A I can remember seeing them sitting in some  
 10 chairs --

11 Q Okay.

12 A -- down here at one time.

13 Q Okay. "Down here" being down in the --

14 A In the corridor.

15 Q The western end of the corridor?

16 A The eastern end.

17 Q The eastern end of the corridor of the main  
 18 hallway?

19 A I can't really give you any real good time  
 20 frame when I saw them.

21 Q Okay. That's fine. They were sitting in  
 22 some chairs there. There are chairs lining the main

1 hallway?

2 A There is couches and chairs down in this  
 3 end, yes, sir.

4 Q As is in any major hallway in a residence.  
 5 And what kind of tasks were they doing? Were they  
 6 just simply reading so that they could read it fairly  
 7 easily, or were they with computers?

8 A Oh, no, they would have been reading or  
 9 writing.

10 Q Editing?

11 A Editing type of thing.

12 Q And was that the same type of task that was  
 13 performed in the book room?

14 A As far as I know.

15 Q Right.

16 A I never really observed them working, other  
 17 than just a very quick glance.

18 Q Did you seem them working at the computer  
 19 in the book room?

20 A Yes, I have seen people working on the  
 21 computer.

22 Q Is the computer still there now?



1 A I don't know.

2 Q That's fine. But it was there in July and  
3 August of 1995?

4 A Yes.

5 Q Okay. Thank you. Actually before I  
6 forget, what is the name of your contact at the  
7 National Park Service? Who is the project manager  
8 over there?

9 A The person on site?

10 Q The person on site.

11 A His name is Joe Michael.

12 Q Was he the person in charge on-site?

13 A Yes.

14 Q And what was his title?

15 A Probably would be project supervisor.

16 Q And similar to the task that you were doing  
17 before you joined the usher's office?

18 A That's correct.

19 Q And you mentioned that he had about five  
20 persons working under him?

21 A Yes.

22 Q Could you name them off as you are doing

1 them silently.

2 A Doug Loue.

3 Q Spelling?

4 A Loue, I believe, is L-o-u-e.

5 Q Okay.

6 A Michelle Mickley.

7 Q M-i-c-k?

8 A I think it is l-e-y. Their names are  
9 probably on the logs.

10 Q Okay. Good. They would be reflected on  
11 the usher's logs?

12 A No, on the work logs.

13 Q On the -- oh, on the work logs. Okay.

14 A I think their names would be listed there.  
15 I'm not certain.

16 Q You mean on the daily construction logs?

17 A Yes.

18 Q Let me see if they are.

19 A If they are not, they prepare a daily  
20 proposed work schedule that I look at and their names  
21 are on there, so that may be why I think they are on  
22 here.

1 Q No --  
2 A If they are, they would be at the bottom.  
3 Q -- no, they are not.  
4 A Okay. Well --  
5 Q Roughly. No need to be comprehensive.  
6 A Let's see, Aubrey Davis.  
7 Q Okay.  
8 A Jim Smith. Great name.  
9 Q Certainly better than Viet Dinh.  
10 A But no one confuses you.  
11 Q Precisely.  
12 A Those are the principals.  
13 Q Those are the principal on-site  
14 personnel --  
15 A Yes.  
16 Q -- for the Park Service?  
17 A There is a lady that helps in terms of  
18 office support.  
19 Q But she doesn't spend time actually on  
20 site. These are people, Mr. Loue, Ms. Mickley,  
21 Mr. Davis and Mr. Smith and Mr. Michael to a certain  
22 extent are the people in the Park Service that you

1 said sometimes would do actual on-site escort kind of  
2 things?  
3 A They have passes.  
4 Q They have passes.  
5 A The other lady that is in the office does  
6 not have a pass.  
7 Q Okay. Great. And they do some of the  
8 escort work when the Secret Service needs it?  
9 A When we are shorthanded.  
10 Q When you are shorthanded. So it would be  
11 the Secret Service would primarily have the  
12 responsibility for the escort work on the third  
13 floor?  
14 A Absolutely.  
15 Q And then once in a while, when there is a  
16 lot of work going on, like I imagine when the First  
17 Lady is out of town or if the First Family is out of  
18 town during vacation, when you have 10 different  
19 projects going on --  
20 A Exactly.  
21 Q -- at any one time on the third floor, they  
22 may ask you to come in and help, and that is the

1 usher's office, and that you would task that out to  
2 the various people in the executive residence staff?

3 A Yes. Usually it was more helping people  
4 get from one place to another. Secret Service would  
5 station people, if you would, but you still have to  
6 get there and go get tools or go get materials.

7 Q So even while -- so at all times they have  
8 to be under supervision and surveillance by a member  
9 of either your staff or the Secret Service?

10 A That's correct.

11 Q And when that is not -- when that is not  
12 feasible, then the Park Service -- then you would  
13 call on the Park Service when you are really  
14 short-handed?

15 A That's correct.

16 Q If you are really short-handed?

17 A If it is going to impact the work, that is  
18 where I would draw the line.

19 Q Okay. So let's say that there are three  
20 scheduled sites. There is construction on 323 and  
21 construction in another part of the third floor and  
22 construction in 319-A --

1 A Okay.

2 Q -- simultaneously.

3 A Okay.

4 Q So there would usually be three Secret  
5 Service officers?

6 A Probably not be three.

7 Q Probably not be three.

8 A It probably would be one or two.

9 Q One or two that would observe.

10 A That would observe, maybe they would stand  
11 in the doorway where they could see a couple of areas  
12 simultaneously.

13 Q Okay. But that is something that they  
14 would have constant surveillance of both areas?

15 A That's the intent certainly.

16 Q Okay. And that's a call for the Secret  
17 Service --

18 A That's correct.

19 Q -- in their professional judgment to make?

20 A That's correct.

21 Q And that is true with respect to all  
22 private areas for the White House residence; correct?

- 1       A    Yes, sir.
- 2       Q    And by "private areas," you mean the second  
3 and third floors?
- 4       A    That's correct.
- 5       Q    You don't mean like truly private areas  
6 like the Lincoln Bedroom, or the First Lady's or the  
7 President's bathroom, or something like that? You  
8 mean areas on the second and third floors?
- 9       A    All areas --
- 10      Q    All areas.
- 11      A    -- on the second and third floors.
- 12      Q    The reason that I asked that was to be more  
13 direct, that Mr. Ivey asked you earlier whether the  
14 book room is considered to be a private area.
- 15      A    I would consider all of the living quarters  
16 of the second and third floor as a private area, as  
17 being a private area. There are some utilitarian  
18 areas on the third floor, so that's why I would not  
19 consider all of the third floor.
- 20      Q    The utilitarian areas being like the chef's  
21 closet that you were talking about earlier?
- 22      A    Sure.

- 1       Q    Or let's say, the butler's office in the --  
2 down the service hallway?
- 3       A    Right. And we have a laundry area and a  
4 mechanical area.
- 5       Q    And a major linen room that is off to the  
6 side of the wall?
- 7       A    That's correct.
- 8       Q    The main linen room or something like that?
- 9       A    That's correct.
- 10      Q    Those are the utilitarian areas?
- 11      A    That's correct.
- 12      Q    Those are as opposed to the private areas?
- 13      A    The areas that the family uses that are  
14 reserved for the family.
- 15      Q    And the book room is one of the areas that  
16 the family uses?
- 17      A    That's correct.
- 18      Q    So while not as private, let's say, as,  
19 let's say, as the Lincoln Bedroom, it is still  
20 considered to be a private area; that is, an area  
21 that the family uses under that definition?
- 22      A    Yes, sir.



1 Q Right. And so the same rules that you had  
2 illustrated earlier to me with respect to the  
3 handling of documents, with the respect to serving of  
4 materials, with respect to the moving of furniture  
5 and the like would apply to the book room?

6 A That's correct.

7 Q So again if a -- so again a construction  
8 worker would not place say a 1-inch thick stack of  
9 11-by-17 documents in the book room?

10 A Not to my knowledge, he wouldn't.

11 Q It certainly would be cause for removal  
12 from the site, as you stated earlier?

13 A Absolutely.

14 Q And you certainly have not seen a  
15 construction worker do that?

16 A That's correct.

17 Q Likewise with any member of your staff?

18 A That's correct.

19 Q And likewise you have not seen any member  
20 of your staff carrying anything like that?

21 A That's correct.

22 Q As a matter of fact, you have never seen

1 anything like this in the White House?

2 A That is correct, no, sir.

3 MR. DINH: That's all I have. Thanks.

4 MR. IVEY: That's it.

5 (Whereupon, at 5:36 p.m., the deposition  
6 was concluded.)

7

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DENNIS W. FREEMYER

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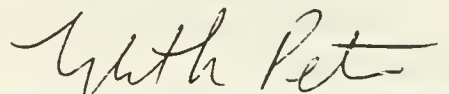
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

221

I, **MARYBETH PETERS**, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken and, further, that I am not a relative or employee of an attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



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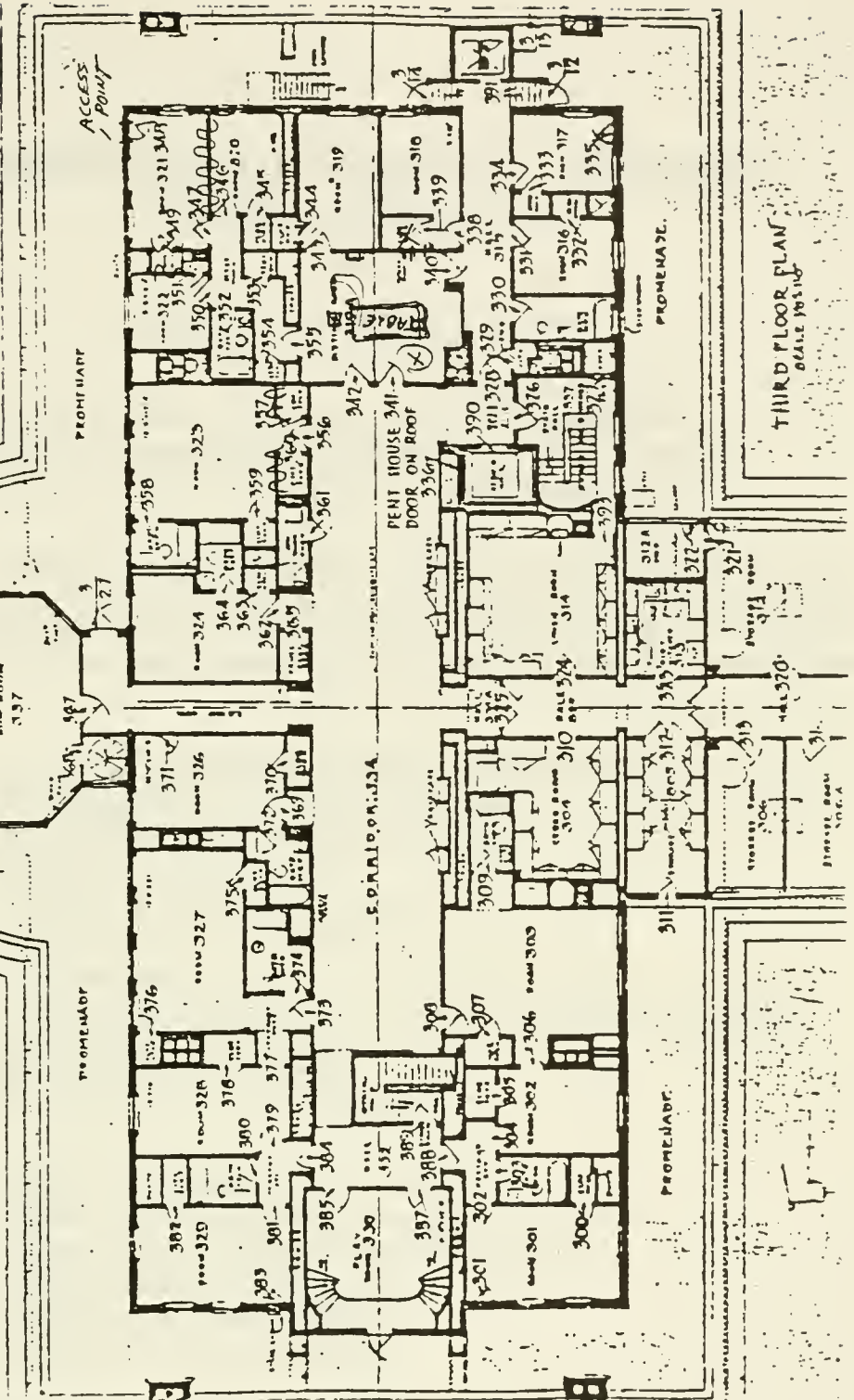
Notary Public in and for the  
District of Columbia

My Commission Expires

NOVEMBER 30, 1999

DEPOSITION  
EXHIBIT

1 Freeman  
3/15/96 mod







**DEPOSITION OF STEVEN A. SWITZER  
IN RE: S. RES. 120**

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**MONDAY, FEBRUARY 5, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of STEVEN A. SWITZER, called for examination pursuant to notice of deposition, at 6:50 p.m. in Room 640-A of the Hart Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.  
Majority Associate Special Counsel  
ROBERT J. GIUFFRA, JR., Esq.  
Majority Chief Counsel  
JAMES S. PORTNOY, Esq.  
Minority Associate Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

FRED W. GIBSON, JR., Esq.  
Office of the Inspector General  
Federal Deposit Insurance Corporation  
1735 North Lynn Street  
Arlington, Virginia 22209  
On behalf of the Deponent.

**ALSO PRESENT: PAUL WEECH**

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## 1 P R O C E E D I N G S

2 MR. GIUFFRA: Good evening, Mr. Switzer.  
3 My name is Robert Giuffra. I'm chief counsel of the  
4 Senate Banking Committee. To my left is Jim Portnoy,  
5 who is an associate special counsel for the  
6 Democrats. Joining us will be Chris Bartolomucci, an  
7 associate special counsel for the Majority. This is  
8 a deposition being conducted pursuant to Senate  
9 Resolution 120 which establishes a special committee  
10 to investigate Whitewater Development Corporation and  
11 related matters which is administered by the Banking  
12 Committee.

13 The procedure this evening will be I will  
14 ask you questions and then Mr. Portnoy will ask you  
15 questions. You will have an opportunity to be  
16 represented by counsel. You have been chosen to do  
17 so by Mr. Gibson. Please state your appearance.

18 MR. GIBSON: Fred Gibson, senior attorney  
19 with the FDIC Office of Inspector General  
20 representing Mr. Switzer.

21 MR. GIUFFRA: If at any time you have any  
22 questions about the procedure or you don't understand

---

1 a question, please let us know and we will rephrase  
2 the question. Your counsel has the right to object  
3 to the forms of the questions and on the grounds of  
4 privilege and relevance. The procedure we follow for  
5 dealing with such issues is specified in the  
6 resolution. As you know, you will be testifying  
7 tomorrow at the public hearing.

8 MR. GIUFFRA: Do you have any questions?

9 THE WITNESS: No.

10 MR. GIUFFRA: Please swear the witness.  
11 Whereupon,

12 STEVEN A. SWITZER  
13 was called as a witness and, having first been duly  
14 sworn, was examined and testified as follows:

15 EXAMINATION

16 BY MR. GIUFFRA:

17 Q What is your present position?

18 A I am the Deputy Inspector General for audit  
19 in the Federal Deposit Insurance Corporation.

20 Q I am going to focus your attention on one  
21 matter. Before I do that, I just want to ask you, in  
22 terms of the RTC IG report, what was your role? This

1 is on Madison.

2 A This is on the investigative report?

3 Q Yes.

4 A At the time that I was, of course, at the  
5 RTC, I was a Deputy Inspector General and therefore  
6 had a supervisory role over the issuance of that  
7 report.

8 Q Did you supervise the conduct of the --  
9 were you responsible primarily for the audit aspect  
10 of the investigation?

11 A Well, in the position I was in, I served  
12 over both the audit and the investigative sides. So,  
13 I had a managerial role, if you will, with both.

14 Q I'm going to focus your attention on the  
15 billing records that were found at the White House.  
16 Those have been identified previously as DKS N 28928  
17 through DKS N 29042.

18 What was your reaction when you learned of  
19 the discovery of these records?

20 A I guess I was surprised because we had  
21 requested information such as this from the Rose Law  
22 Firm during the conduct of our work and hadn't

1 received it. They explained to us that they no  
2 longer existed.

3 Q Have you had an opportunity to review these  
4 newly discovered billing records?

5 A Yes, I have. I have done some analysis of  
6 them.

7 Q Just generally first, in the various  
8 reports that the RTC IG issued where various factual  
9 statements were set forth and there was some  
10 analysis, do these billing records change the  
11 analysis of Rose's conflicts with regard to Madison  
12 as set forth in RTC IG's report dated August 3, 1995?

13 A You asked if they changed the analysis. I  
14 don't know that they necessarily changed the  
15 analysis. They do provide additional information for  
16 us to look at as we try to complete that.

17 Q Would you describe this additional  
18 information as significant information?

19 A It is information that we did not have  
20 before.

21 Q And you would have wanted to have?

22 A It would have helped us during the course



1 of our investigation in terms of determining whether  
2 there were other things that we should look at.

3 Q Would you describe it as significant  
4 information or no?

5 A Significant to the investigation. Whether  
6 it is significant in a bigger picture, I don't know.

7 Q Would you say --

8 A To our investigation, it would have been  
9 significant, because it was information we did not  
10 have.

11 Q It is also probably the best available  
12 evidence of the extent of Rose's work on the Madison  
13 matters?

14 A Yes, to the extent that we earlier had not  
15 gotten a lot of information from them, yes, it was  
16 really the only information.

17 Q In order to do the conflicts analysis, it  
18 was very important to determine the extent of Rose's  
19 work for Madison?

20 A Well, the whole investigation was focused  
21 on conflicts.

22 Q In order to do that investigation, you had

1 to determine the extent of Rose's work for Madison?  
2 That was very important to the investigation; right?

3 A Yes, in the sense of determining the  
4 potential of conflicts.

5 Q In order to determine the extent of any  
6 conflict that Rose might have with regard to  
7 representing the RTC in the Frost matter because of  
8 its prior representation of Madison, you would need  
9 to determine what the scope of the prior  
10 representation of Madison was; right?

11 A Yes.

12 Q You would also need to know the nature of  
13 the prior representation of Madison?

14 A Yes, we would need to know that.

15 Q And you would need to know to whom the Rose  
16 lawyers -- strike that.

17 You would need to know whether Rose lawyers  
18 were involved in, for example, with regard to the IDC  
19 Castle Grande project, drafting various types of  
20 documents; correct?

21 A Yes.

22 Q And who they spoke to at Madison with

1 regard to the project?

2 A I don't know that it was so critical that  
3 we needed to know exactly who they were speaking to,  
4 so long as we had, for example, information in our  
5 investigative report that discussed what appeared  
6 obviously to us to be conflicting situations. This  
7 was just additional information concerning those.

8 Q Now, was a man named Seth Ward relevant to  
9 your conflicts analysis?

10 A Yes, he was.

11 Q He was the father-in-law of Web Hubbell;  
12 correct?

13 A Yes.

14 Q Web Hubbell was the lead attorney for the  
15 RTC in the Frost litigation?

16 A Yes, I believe he was.

17 Q These records, do you think these records  
18 indicate greater interaction between Mr. Ward and  
19 lawyers at the Rose Law Firm than previously known in  
20 connection with Castle Grande?

21 A I really have not looked at it in that  
22 sense, in other words, comparing his involvement to

---

10

1 other involvement to others that were there in the  
2 firm.

3 Q One of the issues in this conflicts  
4 analysis was the extent of Rose's prior contact or  
5 even representation of Mr. Ward; right?

6 A Yes. That was discussed in our  
7 investigation.

8 Q So that knowing the number of times, for  
9 example, that Mr. Ward spoke with particular lawyers  
10 at Rose and for how long would be highly relevant to  
11 your investigation?

12 A From a legal standpoint, I suspect that it  
13 would. It would get into the level of involvement.  
14 But from my perspective, I think not being a lawyer,  
15 if there was one contact and it seemed to be of  
16 substance, that would establish a conflict.

17 Q Your background is what, as an accountant?

18 A Yes, I'm an accountant.

19 Q So you don't really look at things from the  
20 legal perspective?

21 A Not unless I have to.

22 Q What is a reportable event? In terms of a

1 conflict, that would be something you would look to  
2 Ms. Black for information about?

3 A Exactly.

4 Q In looking at the billing records, are  
5 there particular items that you can recall -- strike  
6 that.

7 You have had an opportunity to review these  
8 billing records?

9 A Yes.

10 Q Are there particular items in the billing  
11 records that you think are particularly noteworthy?

12 A From my perspective, the accountant's  
13 perspective, what I notice is the difference that  
14 existed between things. And by "things" I will  
15 clarify it, in essence what they call a billing memo  
16 which was, in my mind, like a draft of a bill.  
17 That's what they looked at to see if it was right.  
18 There were differences in the amounts contained in  
19 the billing memos versus that which was contained in  
20 this document that was referred to as the billing and  
21 payment history, which was, once again reverting to  
22 my accounting lingo, this was their true accounts of

---

1 the Rose Law Firm.

2 And then differences again with respect to  
3 the actual invoices.

4 Q Do you have any view as to the significance  
5 of these differences in terms of the conflicts  
6 analysis?

7 A No, I don't.

8 Q That's something for Ms. Black?

9 A Yes.

10 Q You basically focused on the numbers and  
11 identified differences?

12 A Right, and tried to identify where those  
13 were, which, since we are not through, we are not  
14 done yet.

15 Q You have provided us with a number of  
16 schedules. Let's mark this first one as a "schedule  
17 of services performed by H.R. Clinton."

18 (Switzer Exhibit 1 identified.)

19 BY MR. GIUFFRA:

20 Q Describe in your own words what is depicted  
21 in this document and its significance.

22 A Basically this is a listing of the invoices

1 and the dates associated when Mrs. Clinton provided  
2 some sort of a service, be it a conference or  
3 whatever, with Seth Ward.

4 Q So, you have identified approximately 8.13  
5 hours of work involving Ms. Clinton that can be  
6 related to Seth Ward?

7 A That's what the schedule shows, yes.

8 Q You have identified 16 either conferences  
9 or teleconferences involving Mrs. Clinton and  
10 Mr. Ward?

11 A Yes.

12 Q And Mrs. Clinton billed fees of \$1034.66  
13 for performing these services that relate to  
14 Mr. Ward?

15 A Yes, that's what is shown here.

16 Q Your legend NLOI, those would be these  
17 three items which would be the first item 11 to 12,  
18 these would be things that are not listed in the  
19 billing invoice but that appear in the billing memo?

20 A In 1112 or 1120?

21 Q I am looking at the item in the far  
22 left-hand side.

1 A Item 12.

2 Q It looks like it is item 11, 12 and 1 or 2,  
3 11 and 12.

4 A Yes.

5 Q It seems like a fairly self-explanatory  
6 document. Why did you prepare this document?

7 A This was just to document the contacts that  
8 she had with Seth Ward.

9 Q Why would her contacts with Seth Ward be  
10 relevant to the conflicts analysis?

11 A It would provide additional documentation  
12 in terms of the investigation primarily for  
13 Patricia's benefit --

14 Q She, Ms. Black, would be the one to focus  
15 on the legal --

16 A She would obviously know more of the  
17 substance of the pertinence of the meetings and  
18 things like that.

19 Q Did Ms. Black ask you to prepare this  
20 schedule?

21 A Yes, she did.

22 Q Is there anything more in this schedule



1 that we should be aware of?

2 A No.

3 Q Pretty self-explanatory.

4 MR. GIBSON: Off the record.

5 (Discussion off the record.)

6 BY MR. GIUFFRA:

7 Q Mr. Switzer, Deposition Exhibit 1, there  
8 are two columns on the far right-hand side of the  
9 document. One is called "hours per billing memo" and  
10 the other is "fees per billing memo." What you have  
11 done is that if Mrs. Clinton had conferences with  
12 three people, let's take 11/26/85, and she billed one  
13 hour, you would just arbitrarily divide the one hour  
14 to one-third; correct?

15 A That's correct. This was just an estimate,  
16 if you would, trying to associate some time with it.  
17 This kind of goes back and points to the problem we  
18 have in general, and that is we have certain of these  
19 unexplained differences, and absent additional  
20 information, we don't know why they don't jibe.

21 Q The difficulty is you arbitrarily are  
22 assigning time based on -- if she just spoke with

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16

1 Mr. Ward and that was all that was billed, you would  
2 bill the full amount and that is not an arbitrary  
3 assignment of time. If there were several  
4 conferences in the same entry, you would be dividing  
5 it --

6 A Exactly, by the number of hours that were  
7 there.

8 MR. GIUFFRA: Let's make this Exhibit 2.  
9 This is another schedule of services performed by  
10 H.R. Clinton.

11 (Switzer Exhibit 2 identified.)

12 BY MR. GIUFFRA:

13 Q Who asked you to prepare this document?

14 A This also was prepared for Ms. Black. It  
15 is just a summary schedule to look at. Once again,  
16 you will see .66, obviously they don't operate on the  
17 basis of two-thirds of an hour. So, for example, you  
18 see matter number 1, the first three items, same  
19 date, 4/23/85, and you see three conferences, one  
20 with Massey, one with McDougal and Latham and one  
21 with Gregory.

22 Q So, really when you look at this document,

1 if you look to the third page, the number we have,  
2 5,514 for the fees billed per the billing memo,  
3 that's the amount of work you can account for looking  
4 through the billing memos?

5 A Yes. The breakdown of that as shown in the  
6 hours is once again just an estimate on our part.

7 Q The hours is broken out by, she had, for  
8 example, conferences with two people, you would  
9 divide the one hour billed in connection with those  
10 conferences?

11 A Yes.

12 Q The 42.82 total hours billed, that is  
13 reflecting the total hours she billed that are  
14 accounted for in the billing memo?

15 A Yes.

16 Q Let me show you a document we prepared.  
17 Let's turn to page --

18 MR. GIBSON: Off the record.

19 (Discussion off the record.)

20 BY MR. GIUFFRA:

21 Q Turn to page DKS N 29011.

22 A Okay.

1 Q If you look at that document, the amount to  
2 bill is 2,731.25 and the standard value is \$912.50;  
3 correct?

4 A Yes.

5 Q So, Mrs. Clinton billed \$1818.75 more than  
6 what would be determined just looking at her hours;  
7 correct?

8 A How much?

9 Q \$1818.

10 A Yes, plus or minus, yes, without doing the  
11 math.

12 Q If you divide her hourly rate of 125 into  
13 that, it gives you about 14-1/2 hours of work;  
14 correct?

15 A Okay. I am not doing the math.

16 Q Let me show you a document we prepared.  
17 This is Black Exhibit 1. This was our attempt to  
18 figure out any unaccounted-for time. You came up  
19 with on your chart that Mrs. Clinton had done 42, 43  
20 hours of work. But her billings are for a greater  
21 amount of work. We calculate her additional work to  
22 total \$1818.75, which equals 14.55 hours. If you

1 look at the actual amount billed on the January 30,  
2 1995 bill, it is 4,651.50. Do you recall that?

3 A January, which bill?

4 Q January 30, '95.

5 MR. PORTNOY: For the record, that would be  
6 DKS 029010.

7 MR. GIBSON: What was the number?

8 MR. PORTNOY: 29010.

9 THE WITNESS: I have it.

10 BY MR. GIUFFRÀ:

11 Q The total amount is \$4651, right, and 50  
12 cents? Total for services billed?

13 A I see where you are.

14 Q The billing memo amount does not add up  
15 to --

16 A Just quick math, it does not add up to that  
17 amount.

18 Q What we have learned is that the additional  
19 amount, the 1,189, reflects the adding of the  
20 September and October '95 bills -- '85 bills. That  
21 gives you the total. We have learned that from  
22 Mr. Clark. Are you aware of any of this?

1 A I watched part of Mr. Clark's testimony.  
2 So, yes, I'm aware of how he explained that some  
3 previous amounts from previous bills, if you would,  
4 invoices, were paid in a subsequent invoice. While  
5 those numbers add up, from an auditor's perspective,  
6 the problem is the bill was previously marked paid.

7 Q I know. I had that same problem.

8 MR. PORTNOY: If the bill was marked paid,  
9 you don't know when it was paid, do you?

10 THE WITNESS: When you go back and look at  
11 the earlier bill -- the one I'm thinking of here  
12 is -- once again, January 30th, and we had a  
13 difference of 745 bucks between the actual invoice  
14 and the billing history.

15 Yes, it adds up quite nicely. The two  
16 items prior to that -- but the two items prior to  
17 that, at least one of them, as I recall, was marked  
18 paid sometime in December, while the 2518 was marked  
19 paid later. I don't have the piece of paper in front  
20 of me.

21 MR. GIUFFRÀ: I understand.

22 THE WITNESS: Do you follow me, Jim?

1 MR. PORTNOY: Yes.

2 BY MR. GIUFFRA:

3 Q You haven't given any thought to this issue  
4 of the unaccounted 14-1/2 hours that Mrs. Clinton  
5 billed on the IDC matter based on the fact that she  
6 billed for more than \$1818?

7 A Once again, from an accounting and  
8 auditor's perspective, I don't have anything that  
9 supports it.

10 Q You see her amount to bill is higher than  
11 what is reflected --

12 A Yes, I see a difference, but I don't -- we  
13 are not through yet, and I have no way of reconciling  
14 that with the documents that I have.

15 MR. GIUFFRA: Let's mark this Exhibit 3.  
16 (Switzer Exhibit 3 identified.)

17 BY MR. GIUFFRA:

18 Q What is reflected in this document,  
19 Exhibit 3?

20 A What this is is basically the schedule of  
21 the billing documents which we received. It  
22 schedules them out by invoice dates, by invoice

1 numbers. Then it has the shaded column highlights,  
2 if you would. The first column is the amounts  
3 reflected in the billing memos, which are what I call  
4 prebills that are prepared for the attorney to review  
5 and make sure that they are satisfactory. The second  
6 item is the billing history and payment -- billing  
7 and payment history, which is their accounting  
8 records reflecting amounts billed and what was paid,  
9 if you would.

10 Then we do some calculations between the  
11 first two where we noted some differences. Then we  
12 show another column that is column 3, identified here  
13 as the actual invoice figures. These were the  
14 invoices that were generated and I assume sent to  
15 Madison for payment. Once again, we identify some  
16 differences between those numbers.

17 Q What is the significance of these  
18 differences, just generally?

19 A Well, from an accounting point of view, it  
20 throws them out of balance. We don't know, from what  
21 we are doing, what the explanation is.

22 Q It appears there is a difference between



1 the amount of time reflected in the billing memos and  
2 the billing history, i.e., the amount of money that  
3 was billed -- strike that. It is hard to know what?

4 A The accounting records, if you would. It  
5 is a historical document. Column 3 is the actual  
6 invoices, what was billed.

7 Q The billing history is what is reflected in  
8 the billing memo -- what is reflected -- the column 1  
9 is the billing memos. We know what those are. There  
10 are billing memos that are missing. So that makes  
11 your work more difficult?

12 A Yes, that's true.

13 Q So, this is -- we may use this chart  
14 tomorrow. For example, you don't have billing memos  
15 for September 20, '85 bill, the October 29, '85 bill,  
16 the March 3, '86 bill. You are missing those billing  
17 memos; right?

18 A I didn't get those three that you  
19 mentioned.

20 Q 3/6/86, 10/29/85, 9/20/85, those are  
21 missing. All the ones where it says N/A, those are  
22 missing, document not available for review in

1 column 1.

2 A Yes. There are nine instances of that.

3 Q You have identified nine instances where  
4 the billing memos are missing.

5 A Right.

6 Q Then you look at the billing history, and  
7 what is the billing history? That's the amount that  
8 is reflected on the top?

9 A On the top summary of the billings and  
10 payments.

11 Q Which indicates that Madison paid  
12 \$21,401.87 to Rose; correct?

13 A Yes.

14 Q The increase that you have identified is an  
15 increase of 2564.25; correct?

16 A Right.

17 Q The actual invoice is the amount, if you  
18 add up all the invoices together, you come up with a  
19 total of 24,572.67; correct?

20 A Yes, that's right.

21 Q Let me just focus your attention, let's  
22 take a look at the 1/30/86 bill.

1 A Okay.

2 Q That one, if you add up the billing memo,  
3 you come up with 1647.30 worth of work?

4 MR. GIBSON: Which 1/30?

5 MR. GIUFFRA: From matter 5.

6 THE WITNESS: 1647.30.

7 BY MR. GIUFFRA:

8 Q The billing history, the amount of money is  
9 3466.05?

10 A Yes.

11 Q That gives you the difference of 1818 that  
12 I have been focusing on?

13 A Yes.

14 Q That seems to have been reflected the cause  
15 Mrs. Clinton having an amount that is higher than the  
16 standard billing?

17 A Yes. There were annotations to provision  
18 it that way, as I recall.

19 Q The actual invoice is what is on the actual  
20 January 30, '86 bill; correct?

21 A Right.

22 Q And you show over the billing memo with a

1 3,023.05 difference and over the payment history and  
2 the invoice you get a 1204.30 difference; right?

3 A Right.

4 Q And I guess the difference is that if you  
5 add up the September and October bills, I think that  
6 adds up to 1204.30.

7 A Yes, it does.

8 Q This is just more of the confusion that is  
9 generated by these.

10 A This goes back to what I was saying a while  
11 ago. I would have to look and see exactly. But when  
12 Mr. Clark testified, he said that that's what that  
13 represented. But I believe we have --

14 Q Your difficulty is the invoices themselves  
15 say "paid" stamped on each one?

16 A Yes.

17 Q From an auditor's standpoint, you would  
18 expect that to mean that was paid?

19 A Yes.

20 Q The significance of this, perhaps from a  
21 conflicts perspective, is it shows more work on  
22 Madison matters by Rose Law Firm than people

1 previously thought?

2 A Exactly, and from an accounting standpoint,  
3 and listing Mr. Clark's testimony --

4 Q You can't make heads or tails of it?

5 A Yes, you can't. And if what he is saying  
6 is accurate, then it appears there have been  
7 duplicate payments made. They paid it once and then  
8 they paid it again in a subsequent bill.

9 MR. PORTNOY: Do the records show to you it  
10 was actually paid twice? I believe you indicated the  
11 payment history reflects lower payments than the  
12 invoices?

13 THE WITNESS: That's true.

14 MR. PORTNOY: So, your statement that the  
15 bill was paid twice is a reflection of looking at the  
16 invoice?

17 THE WITNESS: Based on the paid stamp on  
18 the invoice.

19 MR. PORTNOY: Not actually having traced  
20 funds?

21 THE WITNESS: Right. The only way we can  
22 do that is get our hands on the trust account.

1 BY MR. GIUFFRA:

2 Q In fact, that document is missing, the  
3 trust account?

4 A I don't know if it is missing.

5 Q Let me show you a document we prepared.  
6 This is Black Exhibit 2. What this is an attempt to  
7 do is list all of Mrs. Clinton's time that was billed  
8 to IDC, total it up. We come up with 15 hours worth  
9 of work. Then we have this 1818 that gets billed to  
10 matter 5. But we don't know what it is. You get  
11 14-1/2 hours if you divide her hourly rate. Does  
12 that seem like a proper accounting analysis?

13 A That's one way to look at it. That's one  
14 of the things we tried to do to look at it to try to  
15 come up with something. Really the only way to tie  
16 down that 1818.75 is to either see some billing memos  
17 or to get our hands on part of the trust account  
18 records.

19 Q The mystery is what Mrs. Clinton did to  
20 justify this 1818.75 worth of work?

21 A Right. We have no idea what that is.

22 Q It would be important to know that for the

1 conflicts analysis because you would want to know the  
2 extent of her work, number one?

3 A Yes.

4 Q Or what she did?

5 A Yes.

6 Q It could well be this 1818.75 is just a  
7 premium that she charged; that's one possible  
8 explanation. Or it could reflect actual work that  
9 was done?

10 A I wouldn't want to speculate one way or the  
11 other.

12 Q Those are the two options.

13 Let me ask you another question. Did you  
14 have occasion to examine whether when Mrs. Clinton,  
15 for example, billed for a teleconference or a  
16 conference with someone if it was with someone at the  
17 Rose Law Firm whether that person had a similar entry  
18 for a conference with Mrs. Clinton?

19 A We looked at that type of thing during our  
20 audit. We did not look at it in connection with this  
21 because our audit did not go back that far.

22 Q Let me show you something we prepared as

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1 Black Exhibit 4. Take your time and look at that  
2 fairly closely.

3 MR. PORTNOY: This is Exhibit 4 to  
4 Ms. Black's deposition. For the court reporter,  
5 Exhibit 2, the last exhibit referred to, was from  
6 Mrs. Black's deposition.

7 MR. GIUFFRA: Yes.

8 (Witness examined the document.)

9 MR. GIBSON: Let's go off the record for a  
10 moment while he is looking at this.

11 (Discussion off the record.)

12 BY MR. GIUFFRA:

13 Q This Black Exhibit Number 4, this is the  
14 kind of analysis you would prepare if you were  
15 examining a law firm's bill to the RTC; right?

16 A Exactly.

17 Q So, you would want to see whether if one  
18 lawyer is billing time for a conference with --  
19 strike that.

20 If Lawyer Jones is billing for a conference  
21 with Lawyer Smith, you would want to see whether  
22 Lawyer Smith is also billing for the conference?



1 A Exactly. That is one of the things we look  
2 for.

3 Q You have done a lot of work, in fact,  
4 examining law firm bills that have been submitted to  
5 the RTC?

6 A Yes, we have.

7 Q And that's in order to see whether there  
8 has been overbilling by law firms?

9 A In some cases --

10 Q It can be over- or underbilling?

11 A Yes. Once again, let me explain the  
12 difference. You have something here that indicates  
13 one person was in a conference and the other person  
14 was not. So, we look at it from that standpoint.  
15 There are also some rules, I don't recall  
16 specifically what they were, about how much we pay  
17 for what we called intrafirm conferencing.

18 Q At least on a billing memo, since the  
19 billing memo is being used, it is the raw material  
20 for the bill, you would want to see the time  
21 reflected by both parties to a conversation?

22 A It would be logical, yes.

1 Q That's the normal way you see a legal bill  
2 down. In looking through the bills found at the  
3 White House, you identified instances in which  
4 Mrs. Clinton billed for conferences with Rose lawyers  
5 and the corresponding Rose lawyer did not bill for a  
6 conference with Mrs. Clinton?

7 A I did not look specifically for that. So,  
8 I couldn't -- that is what we are analyzing right now  
9 as part of what we are doing. We had been focusing  
10 our attention more towards the conflicts side.

11 Q But you are attempting to do this kind of  
12 analysis internally?

13 A Ultimately, yes. We will have something  
14 like that and -- the reason that we have not is this  
15 predates the RTC work.

16 Q The RTC, it is not interested in whether it  
17 is being overbilled. The only relevance to the  
18 conflicts issue is if the Rose Law Firm did more work  
19 on Madison than it previously thought might go to the  
20 conflicts issue.

21 A That might go to the conflicts issue, yes.

22 Q The amount of work that was done.

1 This is the kind of analysis that you  
2 normally would conduct in connection with doing an  
3 audit of a law firm's bills?

4 A Yes.

5 MR. PORTNOY: You would only -- I believe  
6 you testified that the reason you haven't performed  
7 this kind of analysis in this case is because these  
8 bills predate the representation by the Rose Law Firm  
9 of the RTC and you are only looking at Rose Law Firm  
10 bills that pertain to the representation of the RTC?

11 THE WITNESS: Our audit did.

12 MR. GIUFFRA: These bills were not  
13 submitted -- these Madison -- Rose --

14 BY MR. GIUFFRA:

15 Q Rose did not submit these bills to the RTC  
16 for payment; right? That's why you are not looking  
17 into it?

18 A Right.

19 Q You may presently be doing -- you may be  
20 doing this --

21 A We can do that based on this information.

22 Q But for the conflicts analysis to show

1 maybe there are more billings.

2 A We are looking more at it in this  
3 direction, more directed toward the conflict thing  
4 because that is what our investigation was toward.

5 Q How much time have you spent reviewing  
6 these billing records yourself?

7 A Not a great deal. The staff has done a lot  
8 of work. I would say a total of three or four days,  
9 something like that.

10 Q Just looking at the records, can you  
11 identify other accounting issues that you have come  
12 upon from your review of these records?

13 A Other than specific differences you mean?

14 Q Yes.

15 A To me, the differences between these things  
16 and the absence of some of the billing memos, because  
17 it is the type of thing that causes problems from the  
18 standpoint of an audit. There is not support for  
19 these things.

20 Q So there are discrepancies in the bills?

21 A Yes.

22 Q As to the amount billed and the billing

1 memo and the payment history?

2 A Of course, the thing we mentioned a while  
3 ago, it is mundane, if you would, but when they mark  
4 the bill paid or pay it again or what appears to pay  
5 it again type of thing, that bothers auditors, if you  
6 will.

7 Q Are there other things in these bills that  
8 were found at the White House that you have  
9 identified or flagged as potential issues for purpose  
10 of the conflicts analysis?

11 A Not that hit me at the moment, no.

12 Q You didn't look at particular entries?  
13 Ms. Black did?

14 A Patricia looked -- focused on the details  
15 of it. The auditors, we pulled together the summary  
16 stuff for analysis.

17 Q For example, you are not -- strike that.  
18 Would you agree that these billing records  
19 are the best available evidence of the extent and  
20 nature of Rose's work for Madison that you have seen?

21 A It is the only ones we have seen.

22 Q Otherwise, you have been relying on the

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1 interview statements with people or documents; right?

2 A Prior to us seeing those, yes, we relied on  
3 other information to try to piece together what was  
4 going on.

5 Q Would you agree that these would be very  
6 important -- these are very important -- these  
7 billing records are very important evidence in  
8 connection with the conflicts analysis that is being  
9 done now by the FDIC?

10 A Yes, they are.

11 Q Why don't you elucidate for the record, why  
12 do you think these billing records are very important  
13 evidence?

14 A They provide us additional information that  
15 we did not have when we performed our original  
16 investigation.

17 Q For example, showing when lawyers did  
18 things on particular dates and also the amount of  
19 time that was billed and who they spoke to; right?

20 A Details such as that. But I mean also  
21 these were just in their total. We hadn't seen these  
22 type of things. It provided some additional

1 information.

2 Q As far as you know, the RTC IG had been  
3 trying to get these things for a little bit under two  
4 years?

5 A We had been looking for them for a long  
6 time. As I think I said earlier, the Rose Law Firm  
7 told us they did not have them and did not produce  
8 them.

9 MR. GIUFFRA: I don't really have any other  
10 questions.

11 EXAMINATION

12 BY MR. PORTNOY:

13 Q I have about five minutes.

14 You testified before that there were some  
15 apparent differences between the amounts shown on  
16 invoices and the amounts that appear to have been  
17 paid.

18 A Yes.

19 Q You don't have any evidence, do you, that  
20 bills were paid twice?

21 A No, we don't. We have evidence in terms of  
22 number of a discrepancy, but we don't know what the

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1 explanation of it is.

2 Q The total amount received by the Rose Law  
3 Firm according to the records you reviewed is  
4 approximately \$21,000?

5 A Well, the billing history shows that the  
6 \$21,400 and some change, but then the invoices add up  
7 to \$24,570-something. So there is a difference  
8 there.

9 Q If anything, though, that would suggest  
10 that there were invoices that were not paid rather  
11 than invoices that were paid twice, wouldn't it?

12 A It seems like it would say to me that  
13 assuming that the invoices were paid, they paid more  
14 than the billing history showed.

15 Q Do you have any evidence that the Rose Law  
16 Firm received more money from Madison Guaranty than  
17 the billing history shows, actually received?

18 A Well, we are working off of the invoices.  
19 Now I'm trying to remember whether they are all  
20 marked paid. That's what suggests to us that yes,  
21 they made payments, but we don't know.

22 MR. GIUFFRA: The question is whether is it



1 more accurate -- is the billing history more accurate  
2 or is the invoice more accurate? Is that the issue?  
3 To reflect the actual payments:

4 THE WITNESS: It is kind of what came  
5 first, the chicken or the egg?

6 BY MR. PORTNOY:

7 Q There is a discrepancy between the billing  
8 history and the invoices.

9 A Exactly.

10 Q You don't know what it means.

11 A The resolution of that is the trust account  
12 records.

13 Q Lastly, sir, you stated in response to  
14 Mr. Giuffra's question that the billing records are  
15 very important evidence for the conflicts analysis.

16 A Yes.

17 Q When you speak of important evidence, do  
18 you mean evidence that the ultimate determiner of  
19 whether conflicts exist -- strike that. Let me  
20 rephrase it.

21 What do you mean when you say "important  
22 evidence"?

1 A Well, it provided us information which we  
2 did not have when we conducted our investigation. It  
3 gave us additional details in terms of time charges,  
4 amount charged and who was involved.

5 Q The purpose of your investigation was to  
6 compile a record that somebody else would analyze to  
7 determine whether conflicts existed?

8 A That's right. Our investigation was to  
9 look into the conflict situation and then for the RTC  
10 to consider it.

11 Q It wasn't your task to make a determination  
12 whether conflicts existed?

13 A No, it was not.

14 Q So, when you say that information was  
15 important, do you mean that it was important for you  
16 to pass on to somebody else?

17 A That would certainly be part of it. But on  
18 the other hand, there could be information here which  
19 would have caused us to question additional witnesses  
20 that we did not question. I don't know that that  
21 necessarily happened. But that is a potential.

22 Q For example, these invoices, these bills

1 indicate that Mrs. Clinton had some involvement with  
2 regard to something called the IDC transaction;  
3 correct?

4 A Yes, they did.

5 Q In view of these invoices -- strike that.  
6 You did not interview Mrs. Clinton in  
7 connection with your investigation, did you?

8 A No.

9 Q In view of these invoices, you might well  
10 now have interviewed Mrs. Clinton?

11 A We might have.

12 Q That's an area of inquiry that perhaps you  
13 might have followed up on had you had the billing  
14 records?

15 A That could have been, yes.

16 Q You might have, for example, asked  
17 Mrs. Clinton about some of the discrepancies between  
18 the actual amount billed and the billing memos and  
19 the payment history?

20 A If we interviewed her, I would assume we  
21 would have.

22 Q Because she was the billing partner?

1 A That's how she is showing up here, yes.

2 MR. PORTNOY: I don't have any further  
3 questions. Thank you very much. Look forward to  
4 seeing you tomorrow.

5 (Whereupon, at 7:50 p.m., the deposition  
6 was concluded.)

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STEVEN A. SWITZER

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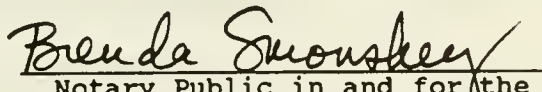
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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

2-5-96

DEPONENT

## ERRATA

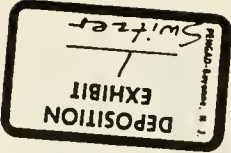
[illegible]



SCHEDULE OF SERVICES PERFORMED BY H.R. CLINTON  
DRAFT DOCUMENT - ATTORNEY WORK PRODUCT - PRIVILEGED AND CONFIDENTIAL

TICKMARK LEGEND: NOBM = Service not listed on billing memo, but appears on invoice.  
NLOI = Service not listed on invoice but appears in billing memo.

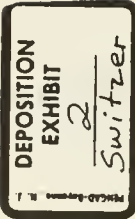
INVOICE #	MATTER #	DATE	ATTORNEY	ACTIVITY CATEGORY	DESCRIPTION OF SERVICE	HOURS PER		FEES PER		TICKMARKS
						BILLING MEMO	BILLING MEMO	BILLING MEMO	BILLING MEMO	
9389	5	11/14/85	Clinton	Conference	With Seth Ward Re: Purchase from Brick Lie	0.50		\$62.50		
9388	4	11/20/85	Clinton	Conference	With S. Ward	0.50		\$62.50	NLOI	
9386	1	11/26/85	Clinton	Conference	With S. Ward	0.33		\$41.66		
9389	5	12/06/85	Clinton	Teleconference	With Seth Ward, Daryl Dover	0.30		\$37.50		
9389	5	12/10/85	Clinton	Teleconference	With Seth Ward	0.25		\$31.25		
9389	5	12/11/85	Clinton	Teleconference	With Seth Ward	0.50		\$62.50		
9389	5	12/19/85	Clinton	Teleconference	With Seth Ward	0.50		\$62.50		
9389	5	12/20/85	Clinton	Teleconference	With Seth Ward	0.50		\$62.50		
9389	5	12/23/85	Clinton	Teleconference	To and From Seth Ward's Office	1.00		\$125.00		
9387	2	12/26/85	Clinton	Teleconference	With Seth Ward	1.00		\$125.00		
9389	5	12/24/85	Clinton	Conference	With S. Ward	0.25		\$31.25	NLOI	
10150	5	01/07/86	Clinton	Conference	With Seth Ward	0.50		\$62.50	NLOI	
10918	4	02/28/86	Clinton	Teleconference	Seth Ward	0.80		\$100.00		
10918	4	05/01/86	Clinton	Teleconference	With S. Ward Re: Option	0.50		\$70.00		
11470	4	05/01/86	Clinton	Conference	With S. Ward	0.50		\$70.00		
11470	4	06/10/86	Clinton	Conference	With S. Ward	0.20		\$28.00		
TOTALS						8.13		\$1,034.66		



# SCHEDULE OF SERVICES PERFORMED BY H.R. CLINTON

## DRAFT DOCUMENT - ATTORNEY WORK PRODUCT - PRIVILEGED AND CONFIDENTIAL

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 NLOI = Service not listed on invoice but appears in billing memo.



INVOICE #	MATTER #	DATE	ATTORNEY	ACTIVITY CATEGORY	DESCRIPTION OF SERVICE	HOURS PER BILLING MEMO	FEES PER BILLING MEMO	TICKMARKS
4974	1	04/23/85	Clinton	Conference	With R. Massey	0.66	\$80.00	
4974	1	04/23/85	Clinton	Conference	With J. McDougal and J. Latham	0.66	\$80.00	
4974	1	04/23/85	Clinton	Conference	With W. Gregory	0.68	\$80.00	
4974	1	04/24/85	Clinton	Conference	With R. Massey	0.50	\$60.00	
4974	1	04/24/85	Clinton	Teleconferences	With R. Massey, J. Latham, Davis Fitzhugh	0.50	\$60.00	
4974	1	04/24/85	Clinton	Review	Draft Documents	0.50	\$60.00	
4974	1	04/25/85	Clinton	Conference	With R. Massey	0.25	\$30.00	
4974	1	04/25/85	Clinton	Review	Subscription Agreement	0.25	\$30.00	
4974	2	04/26/85	Clinton	Conference	With John Latham, Davis Fitzhugh, Rick Massey	2.00	\$240.00	
4974	1	04/29/85	Clinton	Teleconference	With B. Bassett, Securities Commissioner	0.50	\$60.00	
4974	1	04/29/85	Clinton	Teleconference	With R. Massey	0.50	\$60.00	
5463	2	05/08/85	Clinton	Teleconference	With R. Massey	0.50	\$60.00	
5462	1	05/17/85	Clinton	Teleconference	With R. Massey	0.25	\$30.00	NOBM
5462	1	05/17/85	Clinton	Review	Documents	0.25	\$30.00	NOBM
5462	1	05/21/85	Clinton	Review	Application	0.35	\$42.00	
6098	1	06/04/85	Clinton	Teleconference	With R. Massey	0.20	\$24.00	
6098	1	06/05/85	Clinton	Teleconference	With J. McDougal & C. Giroir	0.20	\$24.00	
6098	1	06/07/85	Clinton	Teleconference	With R. Massey	0.50	\$60.00	
6098	1	06/17/85	Clinton	Review	Application Amendments	0.30	\$36.00	
6655	2	07/16/85	Clinton	Teleconference	With R. Massey	0.10	\$12.00	
6655	2	07/19/85	Clinton	Teleconference	With R. Massey	0.20	\$24.00	
6655	2	07/19/85	Clinton	Teleconference	With S. McDougal	0.20	\$24.00	
6655	2	07/19/85	Clinton	Teleconference	With R. Massey	0.20	\$24.00	
6655	2	07/19/85	Clinton	Review	Memo	0.20	\$24.00	
6655	2	07/19/85	Clinton	Teleconference	With S. McDougal	0.20	\$24.00	
6655	2	07/24/85	Clinton	Teleconference	With R. Massey and J. Latham	1.00	\$120.00	
8036	2	07/25/85	Clinton	Teleconference	With R. Massey	0.50	\$60.00	NLOI
7001	2	08/21/85	Clinton	Teleconference	With J. Latham	0.20	\$28.00	
8035	4	09/04/85	Clinton	Review	Letter to Barnett	0.40	\$50.00	
8035	4	09/05/85	Clinton	Teleconference	With R. Massey	0.30	\$37.50	NLOI
8035	4	09/20/85	Clinton	Teleconference	With J. Latham, R. Massey	0.50	\$62.50	
8035	4	09/20/85	Clinton	Conference	With D. Knight, R. Massey	0.50	\$62.50	
9389	5	11/14/85	Clinton	Conference	With Seth Ward Re: Purchase from Brick Lila	0.50	\$62.50	
9388	4	11/20/85	Clinton	Conference	With W. Hubbell	0.50	\$62.50	NLOI

**SCHEDULE OF SERVICES PERFORMED BY H.R. CLINTON**  
**DRAFT DOCUMENT – ATTORNEY WORK PRODUCT – PRIVILEGED AND CONFIDENTIAL**

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INVOICE #	MATTER #	DATE	ATTORNEY	ACTIVITY CATEGORY	DESCRIPTION OF SERVICE	HOURS PER		FEES PER		TICKMARKS
						BILLING MEMO		BILLING MEMO		
9388	4	11/20/85	Clinton	Conference	With S. Ward	0.50		\$62.50		NLOI
9386	1	11/26/85	Clinton	Conference	With S. Ward	0.33		\$41.66		
9386	1	11/26/85	Clinton	Conference	With W. Hubbell	0.34		\$41.68		
9386	1	11/26/85	Clinton	Conference	With T. Thresh	0.33		\$41.66		
9389	5	12/04/85	Clinton	Conference	With R. Massey	0.50		\$62.50		
9389	5	12/06/85	Clinton	Teleconference	With Seth Ward, Daryl Dover	0.30		\$37.50		
9389	5	12/10/85	Clinton	Teleconference	With Seth Ward	0.25		\$31.25		
9389	5	12/10/85	Clinton	Teleconference	With Daryl Dover	0.25		\$31.25		
9389	5	12/11/85	Clinton	Teleconference	With Seth Ward	0.50		\$62.50		
9389	5	12/19/85	Clinton	Teleconference	With Seth Ward	0.50		\$62.50		
9388	4	12/20/85	Clinton	Conference	With R. Massey	1.00		\$125.00		NLOI
9389	5	12/20/85	Clinton	Teleconference	With Seth Ward	0.50		\$62.50		
9389	5	12/20/85	Clinton	Search	For Map	0.50		\$62.50		
9389	5	12/23/85	Clinton	Teleconference	To and From Seth Ward's Office	1.00		\$125.00		
9389	5	12/24/85	Clinton	Teleconference	With Seth Ward	1.00		\$125.00		
9387	2	12/26/85	Clinton	Teleconference	With Election Commission	0.25		\$31.25		NLOI
9387	2	12/26/85	Clinton	Conference	With S. Ward	0.25		\$31.25		NLOI
9389	5	01/07/86	Clinton	Conference	With Ken Shemin	0.50		\$62.50		
9389	5	01/07/86	Clinton	Conference	With Seth Ward	0.50		\$62.50		NLOI
9389	5	01/14/86	Clinton	Conference	Conference with J. Birch, K. Shemin, R. Donovan	1.00		\$125.00		
10150	5	02/17/86	Clinton	Drafted	Response to Auditor's Request	0.50		\$62.50		
10150	5	02/28/86	Clinton		Seth Ward	0.80		\$100.00		
10150	5	03/03/86	Clinton	Teleconference	With Jane Dickey Re: Port	0.25		\$31.25		
10150	5	03/03/86	Clinton	Conference	With Jane Dickey Re: Port	0.25		\$31.25		
10150	5	03/10/86	Clinton	Review	Donovan Memo	0.30		\$37.50		
10149	4	03/21/86	Clinton	Teleconference	With John Latham	0.10		\$12.50		
10919	5		Clinton	Review	Memo on Madison Guaranty as Public Utility	0.30		\$32.00		NOBM
10919	5	04/07/86	Clinton	Teleconference	With Don Denton	0.20		\$28.00		
10937	6	04/09/86	Clinton	Conference	With Don Denton	1.50		\$210.00		
10937	6	04/15/86	Clinton	Teleconference	With Harvey Bell	0.50		\$70.00		
10937	6	05/01/86	Clinton	Conferences	With Herb Rule	0.34		\$46.68		
10937	6	05/01/86	Clinton	Teleconference	With Don Denton	0.33		\$46.66		
10937	6	05/01/86	Clinton	Teleconference	With Rick Cobb	0.33		\$46.66		
10918	4	05/01/86	Clinton	Teleconference	With S. Ward Re: Option	0.50		\$70.00		



**SCHEDULE OF SERVICES PERFORMED BY H.R. CLINTON**  
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INVOICE #	MATTER #	DATE	ATTORNEY	ACTIVITY CATEGORY	DESCRIPTION OF SERVICE	HOURS PER BILLING MEMO	FEES PER BILLING MEMO	TICKMARKS
10918	4	05/01/86	Clinton	Conference	With S. Ward	0.50	\$70.00	
10918	4	05/01/86	Clinton	Prepare	Option	0.50	\$70.00	
10918	4	05/01/86	Clinton	Teleconference	With Mike Schaeffer	0.50	\$70.00	
10937	6	05/02/86	Clinton	Teleconference	With Buzz Dougherty	0.34	\$46.68	
10937	6	05/02/86	Clinton	Teleconference	With Herb Rule	0.33	\$46.66	
10937	6	05/02/86	Clinton	Conferences	With Kevin Burns	0.33	\$46.66	
10937	6	05/06/86	Clinton	Conference	With Kevin Burns and Herb Rule	1.00	\$140.00	
10937	6	05/06/86	Clinton	Teleconference	With Don Denton	1.00	\$140.00	
11471	6	05/12/86	Clinton	Review	Letter from Dougherty	0.18	\$23.34	
11471	6	05/12/86	Clinton	Teleconference	With H.C. Rule	0.16	\$23.33	
11471	6	05/12/86	Clinton	Teleconference	With Grigg Dougherty	0.16	\$23.33	
11471	6	05/13/86	Clinton	Teleconference	With H.C. Rule	0.50	\$70.00	
11471	6	05/19/86	Clinton	Teleconference	With Don Denton	0.20	\$28.00	
11471	6	05/29/86	Clinton	Correspondence	To Buzz Dougherty	0.50	\$70.00	
11471	6	05/29/86	Clinton	Teleconference	With Don Denton	0.50	\$70.00	
11470	4	06/10/86	Clinton	Teleconference	With R. Massey	0.20	\$28.00	
11470	4	06/10/86	Clinton	Conference	With S. Ward	0.20	\$28.00	
12686	6	07/15/86	Clinton	Teleconference	With David Hall	0.15	\$21.00	
12686	6	07/15/86	Clinton	Teleconference	With Don Denton	0.15	\$21.00	
12686	6	07/16/86	Clinton	Correspondence	To Rule	0.10	\$14.00	
12686	6	07/16/86	Clinton	Correspondence	To Dougherty for Denton	0.10	\$14.00	
12686	6	07/17/86	Clinton	Correspondence	To Denton	0.10	\$14.00	
16446	4	03/16/87	Clinton	Prepare	Opinion Letter to Peat, Marwick, Mitchell & Co.	3.57	\$500.00	
<b>TOTALS</b>						<b>42.82</b>	<b>\$5,514.00</b>	



**DRAFT PRODUCT**

**ATTORNEY WORK PRODUCT  
PRIVILEGED AND CONFIDENTIAL**

**DRAFT PRODUCT**

Increase or Decrease  
Between Billing & Payment  
History and Actual Invoice

Increase or Decrease  
Between Billing Memo and  
Billing & Payment History

Increase or Decrease  
Between Billing Memo and  
Billing & Payment History

MATTER NUMBER	INVOICE DATE	INVOICE NUMBER	COLUMN #1		COLUMN #2		COLUMN #3		COLUMN #3 - #2		COLUMN #3 - #1		COLUMN #3 - #1	
			BILLING MEMO	TOTAL	BILLING HISTORY	TOTAL	COLUMN #3	ACTUAL INVOICE	Total		Total		Total	
1 & 2	05/08/85	4974	\$2,016.00	\$2,016.00	\$2,016.00	\$2,016.00	\$0.00	\$2,016.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
1	06/10/85	5482	\$82.20	\$190.20	\$190.20	\$190.20	\$108.00	\$190.20	\$0.00	\$0.00	\$108.00	\$0.00	\$108.00	\$108.00
1 & 2	07/15/85	8098	\$2,041.50	\$1,944.00	\$1,944.00	\$1,944.00	(\$97.50)	\$1,944.00	\$0.00	\$0.00	\$1,944.00	(\$97.50)	\$1,944.00	(\$97.50)
1 & 2	08/08/85	6655	\$860.35	\$860.35	\$860.35	\$860.35	\$0.00	\$860.35	\$0.00	\$0.00	\$860.35	\$0.00	\$860.35	\$0.00
1	09/12/85	7000	n/a	n/a	\$90.00	\$90.00	n/a	\$90.00	\$0.00	\$0.00	\$90.00	n/a	\$90.00	n/a
1	12/05/85	8037	n/a	n/a	\$655.00	\$655.00	n/a	\$655.00	\$0.00	\$0.00	\$655.00	n/a	\$655.00	n/a
1	01/30/86	9386	\$1,046.00	\$1,773.50	\$1,773.50	\$1,773.50	\$727.50	\$2,516.50	\$745.00	\$0.00	\$1,773.50	\$745.00	\$1,773.50	\$1,773.50
1	07/28/86	11941	n/a	\$5.59	\$5.59	\$5.59	n/a	\$5.59	\$0.00	\$0.00	\$5.59	n/a	\$5.59	n/a
1	01/15/87	15422	n/a	\$6.30	\$6.30	\$6.30	n/a	\$6.30	\$0.00	\$0.00	\$6.30	n/a	\$6.30	n/a
2	08/10/85	5463	\$889.00	\$889.00	\$889.00	\$889.00	\$0.00	\$889.00	\$0.00	\$0.00	\$889.00	\$0.00	\$889.00	\$0.00
2	09/12/85	7001	\$30.10	\$30.10	\$30.10	\$30.10	\$0.00	\$30.10	\$0.00	\$0.00	\$30.10	\$0.00	\$30.10	\$0.00
2	12/05/85	8036	\$724.90	\$724.90	\$724.90	\$724.90	\$0.00	\$724.90	\$0.00	\$0.00	\$724.90	\$0.00	\$724.90	\$0.00
2	01/30/86	9387	\$227.50	\$227.50	\$227.50	\$227.50	\$0.00	\$227.50	\$755.00	\$0.00	\$227.50	\$755.00	\$227.50	\$755.00
3	12/05/85	6995	n/a	\$89.51	\$89.51	\$89.51	n/a	\$89.51	\$0.00	\$0.00	\$89.51	n/a	\$89.51	n/a
4	09/12/85	6996	\$234.00	\$234.00	\$234.00	\$234.00	\$0.00	\$234.00	\$0.00	\$0.00	\$234.00	\$0.00	\$234.00	\$0.00
4	12/05/85	8035	\$212.50	\$212.50	\$212.50	\$212.50	\$20.00	\$232.50	\$0.00	\$0.00	\$232.50	\$0.00	\$232.50	\$0.00
4	01/30/86	9386	\$381.25	\$68.75	\$68.75	\$68.75	(\$312.50)	\$535.25	\$468.50	\$0.00	\$535.25	\$468.50	\$535.25	\$154.00
4	04/07/86	10149	\$13.55	\$13.55	\$13.55	\$13.55	\$0.00	\$13.55	\$0.00	\$0.00	\$13.55	\$0.00	\$13.55	\$0.00
4	05/22/86	10918	\$392.50	\$392.50	\$392.50	\$392.50	\$0.00	\$392.50	\$0.00	\$0.00	\$392.50	\$0.00	\$392.50	\$0.00
4	06/27/86	11470	\$56.00	\$56.00	\$56.00	\$56.00	\$0.00	\$56.00	\$0.00	\$0.00	\$56.00	\$0.00	\$56.00	\$0.00
4	03/30/87	16446	\$500.60	\$500.60	\$500.60	\$500.60	\$0.00	\$500.60	\$0.00	\$0.00	\$500.60	\$0.00	\$500.60	\$0.00
5	09/20/85	7090	n/a	\$654.30	\$654.30	\$654.30	n/a	\$654.30	\$0.00	\$0.00	\$654.30	n/a	\$654.30	n/a
5	10/29/85	7566	n/a	\$550.00	\$550.00	\$550.00	n/a	\$550.00	\$0.00	\$0.00	\$550.00	n/a	\$550.00	n/a
5	01/30/86	9389	\$1,647.30	\$3,466.05	\$3,466.05	\$3,466.05	\$1,818.75	\$4,670.35	\$1,204.30	\$0.00	\$4,670.35	\$1,204.30	\$4,670.35	\$3,023.05
5	03/06/86	9694	n/a	\$993.25	\$993.25	\$993.25	n/a	\$993.25	\$0.00	\$0.00	\$993.25	n/a	\$993.25	n/a
5	04/07/86	10150	\$886.12	\$886.12	\$886.12	\$886.12	\$0.00	\$886.12	\$0.00	\$0.00	\$886.12	\$0.00	\$886.12	\$0.00
5	05/22/86	10919	\$31.00	\$121.00	\$121.00	\$121.00	\$90.00	\$121.00	\$0.00	\$0.00	\$121.00	\$0.00	\$121.00	\$90.00
6	05/27/86	10977	\$918.45	\$1,128.45	\$1,128.45	\$1,128.45	\$210.00	\$1,128.45	\$0.00	\$0.00	\$1,128.45	\$0.00	\$1,128.45	\$210.00
6	06/27/86	11471	\$2,104.55	\$2,104.55	\$2,104.55	\$2,104.55	\$0.00	\$2,104.55	\$0.00	\$0.00	\$2,104.55	\$0.00	\$2,104.55	\$0.00
6	09/08/86	12686	\$364.00	\$364.00	\$364.00	\$364.00	\$0.00	\$364.00	\$0.00	\$0.00	\$364.00	\$0.00	\$364.00	\$0.00
6	12/12/86	14438	n/a	\$112.30	\$112.30	\$112.30	n/a	\$112.30	\$0.00	\$0.00	\$112.30	n/a	\$112.30	n/a
TOTALS			SEE NOTE 1	\$21,401.67	\$21,401.67	\$21,401.67	\$2,584.25	\$24,572.67	\$3,170.80	\$0.00	\$24,572.67	\$3,170.80	\$24,572.67	\$5,795.05

n/a = document not available for review

NOTE 1: Billing memoranda for several of the invoices were not provided for our review. Accordingly, no total has been shown in this column.



**DEPOSITION OF NANCY HERNREICH  
IN RE: S. RES. 120**

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**TUESDAY, FEBRUARY 6, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Telephone deposition of NANCY HERNREICH, called  
for examination pursuant to notice of deposition, at 11:10 a.m. in  
Room 640-A of the Hart Senate Office Building, before JOANNE  
LIVERANI, a Notary Public within and for the District of Colum-  
bia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.  
Majority Associate Special Counsel  
LANCE COLE, Esq.  
Minority Deputy Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

ROBERT CEARLEY, Esq.  
217 West Second Street  
Suite 350  
Little Rock, Arkansas 72201  
On behalf of the Deponent.

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## P R O C E E D I N G S

MR. O'CALLAGHAN: On the record. Good morning, my name is Michael O'Callaghan. I am an Associate Special Counsel for the Majority, the Senate Special Committee investigating Whitewater Development Corporation and other related matters. And with me is Lance Cole, who is the Deputy Democratic Special Counsel for the Minority.

Before we begin this morning, I wanted to get it on the record, with regard to our understanding between the witness, the witness's counsel and counsel for the Majority and Minority, that the witness and the witness's counsel has consented to the witness being sworn in, via telephone, by the court reporter.

MR. CEARLEY: This is Robert Cearley. That is correct.

MR. O'CALLAGHAN: Do you agree with that as well?

THE WITNESS: Yes.

MR. COLE: Ms. Hernreich, just as we will try to speak loudly and directly into the speaker of

our speakerphone, if you will speak loudly, too, it will help the court reporter here in hearing you.

THE WITNESS: Okay.

MR. COLE: Thank you.

Whereupon,

NANCY HERNREICH

was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. O'CALLAGHAN: This deposition is conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority, and other related matters. And those would generally be the main focus of today's deposition.

This deposition is in advance of public hearings which are likely to occur later in February, and there is a possibility you will be asked to

1 testify at those hearings. We will ask a series of  
2 questions. You are testifying under oath; you just  
3 were sworn in.

4 If you don't understand a question, either  
5 let me or Mr. Cole know and we will rephrase the  
6 question for you if you need a break also let us  
7 know, at any time.

8 And Mr. Cearley, I think we've discussed,  
9 if you and your client would like to discuss  
10 something with each other that -- we will take a  
11 break and you can talk to her through another  
12 telephone line.

13 MR. CEARLEY: Okay. Will we be furnished  
14 with a copy of this deposition as soon as it is  
15 transcribed, Michael?

16 MR. COLE: Yes. What we have done in the  
17 past is where people have agreed to be deposed by  
18 telephone, and therefore they were not able to come  
19 to the Senate or their counsel was not able to come  
20 to the Senate and review the deposition, we have  
21 provided them a copy of the transcript prior to any  
22 appearance at a public hearing so that they have an

1 opportunity to review it prior to that time.

2 MR. CEARLEY: And we would be afforded that  
3 opportunity?

4 MR. COLE: Yes.

5 MR. CEARLEY: Okay.

6 MR. O'CALLAGHAN: Okay. The stenographer  
7 is preparing a record of questions and answers. And  
8 this deposition will be treated as committee  
9 confidential until the commencement of the hearings.

10 Ms. Hernreich, you may be represented by  
11 counsel. Are you represented by counsel today?

12 THE WITNESS: Yes, I am.

13 MR. O'CALLAGHAN: Could counsel please  
14 identify yourself by your name and the name of your  
15 firm.

16 MR. CEARLEY: Robert Cearley, Cearley Law  
17 Firm, Little Rock, Arkansas.

18 MR. O'CALLAGHAN: Objections to the form of  
19 the question will be noted on the record. Counsel  
20 may object on grounds of privilege or relevance. And  
21 the Committee Chairman may rule on objections or  
22 where the witness refuses to answer a question.

1 MR. CEARLEY: Let me say for the record  
2 here that we have discussed the matter off the record  
3 involving the presentation of documents. Because  
4 this is a telephone deposition, and all of us are at  
5 different locations, and because of the  
6 confidentiality requirements attached to the  
7 documents that you are interested in, Ms. Hernreich  
8 does not have copies of any documents before her that  
9 you may be interested in questioning her about.

10 If that presents a problem of any sort, I  
11 am not going to hesitate to raise that. And I do  
12 appreciate this accommodation to us in allowing us to  
13 do this by telephone, but it has some problems  
14 inherent in the procedure. So if that becomes a  
15 problem, I'll yell.

16 MR. O'CALLAGHAN: Okay, and we'll try to  
17 deal with that as the issues arise.

18 EXAMINATION

19 BY MR. O'CALLAGHAN:

20 Q Ms. Hernreich, could you state and spell  
21 your full name for the record.

22 A Nancy Hernreich, H-e-r-n-r-e-i-c-h.

---

1 Q Have you spoken with anyone, other than  
2 your counsel, prior to this deposition with regard to  
3 the deposition?

4 A Yes, I have.

5 Q Who have you spoken with?

6 A I spoke with Jane Sherburne --

7 MR. COLE: Ms. Hernreich, we have to pause  
8 for a moment. The court reporter is having  
9 difficulty hearing you. Hold on while we move our  
10 speakerphone a bit.

11 (Pause.)

12 BY MR. O'CALLAGHAN:

13 Q You just stated you spoke with Jane  
14 Sherburne. Could you repeat what you said after that  
15 with regard to who else you spoke to about the  
16 deposition.

17 A Yes, I said I talked to -- I notified two  
18 members of my staff, Betty Curry and Rebecca Cameron,  
19 so that I would not be interrupted.

20 Q What was the substance of your conversation  
21 with Ms. Sherburne?

22 A Basically regarding what the discussions

1 would be. She is the first person that told me that  
2 this would be coming. And then I spoke with her  
3 basically for guidance in case there were any White  
4 House documents or White House discussions and she is  
5 legal counsel, White House legal counsel, part of the  
6 White House counsel's office. And I spoke with her  
7 regarding things in case there were any things  
8 related to the White House.

9 Q Did you review any documents in preparation  
10 for the deposition?

11 A No.

12 Q How extended were your discussions with  
13 Ms. Sherburne? How long did you talk to her?

14 A About two minutes.

15 MR. COLE: So you did not discuss with  
16 Ms. Sherburne the substance of any testimony you were  
17 going to give here today, Ms. Hernreich?

18 THE WITNESS: That's correct.

19 MR. COLE: Thank you.

20 BY MR. O'CALLAGHAN:

21 Q Did you have discussions with anyone else  
22 with regard to deposition?

---

10

1 A Not that I recall.  
2  
3

4 Q What's your current business address or  
5 work address?

6 A My business address is the White House,  
7 West Wing, Washington, D.C. 20502.

8 Q What's your present position?

9 A Deputy Assistant to the President, and  
10 Director of Oval Office Operations.

11 Q And how long have you been in that  
12 position?

13 A Well, I have worked at the White House as  
14 Deputy Assistant to the President since January 20,  
15 1993. My title changed, and although basically my  
16 responsibilities remain the same, but my title  
17 changed approximately September of '94. And the  
18 first title was Deputy Assistant to the President,  
19 and -- Deputy Assistant to the President for  
20 appointments and scheduling.

21 Q Ms. Hernreich, did you attend college?

22 A Yes, I did.



1 Q Where did you attend college?

2 A Webster College, St. Louis, Missouri.

3 Q What year did you graduate?

4 A 1968.

5 Q Could you give me a brief description of  
6 what your employment history has been since you  
7 graduated from college.

8 A Since I graduated from college, I first  
9 taught Head Start and then I did school social work,  
10 and then I changed locations. I ran campaigns, most  
11 of which I was not paid to do. Most of that was  
12 volunteer work. I was paid periodically for the  
13 campaigns, and then --

14 Q I'm sorry, and where was that?

15 A Pardon me?

16 Q Where was that?

17 A It was in Fort Smith, Arkansas.

18 Q Were those local elections, state  
19 elections?

20 A Yes, the ones I was paid for. The only one  
21 I can recall getting paid for was the state senate  
22 race in Fort Smith.

1 Q What was the time period for that?

2 A When I got paid for this one, probably in  
3 about '81, somewhere in that range.

4 Q Okay, please continue, sorry.

5 A Yes, I also was paid, just primarily for  
6 expenses, for running a March of Dimes telethon. And  
7 then I became -- started doing scheduling for  
8 Governor Clinton in 1985; and then moved in  
9 transition in December of '92, and moved up here in  
10 January of 1993.

11 Q You said you began scheduling for Governor  
12 Clinton in 1985; is that right?

13 A That's correct.

14 Q Was that the first time you had done work  
15 for him?

16 A Paid employment, yes.

17 Q How about not paid?

18 A I had done -- I had run campaigns locally  
19 for him, from I think 1980 on, until '85.

20 Q When you say ran campaigns, were you the  
21 campaign manager? What was your title?

22 A It was called campaign coordinator. And at

1 some point, it was -- in '80 I just ran the whole  
2 thing, in Sebastian County. Henry Oliver was the  
3 campaign chairman in the county and I was the  
4 campaign coordinator.

5 Q So you did coordination work in specific  
6 districts or counties, or did you do overall  
7 coordination?

8 A For the county which I lived, which is  
9 Sebastian County, for that county.

10 Q How about other campaigns?

11 A Well, they were -- just in that campaign.  
12 I had done some state Democratic work -- not work,  
13 but on state Democratic committees.

14 MR. COLE: We couldn't hear the last part.

15 THE WITNESS: That's what I was trying to  
16 distinguish between when I said that.

17 BY MR. O'CALLAGHAN:

18 Q How did you first come to know Governor  
19 Clinton?

20 A How did I first come to know him?

21 Q Correct.

22 A I met him in about 1976 when he was working

1 on a committee with my ex-husband, on -- sort of an  
2 affirmative action, getting people involved to go to  
3 the Democratic National Convention.

4 MR. COLE: Was that when the governor was a  
5 professor at the University of Arkansas Law School,  
6 or was he Attorney General then?

7 THE WITNESS: He was a professor then.

8 MR. COLE: Thank you.

9 BY MR. O'CALLAGHAN:

10 Q How did you come to your position doing  
11 scheduling for him in 1985?

12 A I was approached by Carol Rasco who was --  
13 worked on social -- health and human services,  
14 about -- she was changing positions and moving into a  
15 deputy chief of staff position. And she had  
16 approached me about taking her job, and I had  
17 interviewed for that.

18 She had been appointed by the governor to  
19 be on a committee that looked at restructuring the  
20 health and human services department in Arkansas, and  
21 I got to know her there. She approached me about  
22 taking over her job. They then called me and asked

1 me if instead I would do the scheduling.

2 Q Do you recall what month you began that  
3 job?

4 A Yes, in September of 1985.

5 Q And how long did you do scheduling for the  
6 governor?

7 A I did it until -- basically in one fashion  
8 or another, until 19 -- till I came up here really.  
9 And I -- in some form or fashion I do it moderately,  
10 but I don't do -- I am not basically in charge of it,  
11 and I quit being in charge of the entire schedule in  
12 about November of 1991.

13 I did the gubernatorial scheduling as long  
14 as he was governor, but I did not do the campaign  
15 scheduling.

16 Q Who took over for you?

17 A Well, that's -- it was sort of a -- again,  
18 I didn't do the -- I always did the gubernatorial  
19 scheduling, but the person who did the campaign  
20 scheduling, they were different people. And you  
21 couldn't really say someone completely took over.  
22 Somebody had taken over that portion of it. I did it

---

16

1 until they were able to hire somebody for the  
2 position, and I had taken annual leave to do that and  
3 had gone to do it -- I did it for about a week or so  
4 until they were able to hire someone who could do the  
5 campaign scheduling.

6 Q Did you have any responsibilities in  
7 addition to your scheduling duties?

8 A Now?

9 Q No, during -- between 1985 and 1991.

10 A In 1991 -- at the end of '91 I had  
11 different duties, and -- but primarily they were all  
12 scheduling.

13 Q What were the additional duties that you  
14 took on in '91?

15 A Well, I moved my office to the governor's  
16 mansion and I ended up doing more things related  
17 to -- I had always been his gatekeeper. And I moved  
18 there to be the gatekeeper more for the phone calls  
19 when he was in town after he was campaigning, and for  
20 the visitors and for the paper, and the things that  
21 would go in and out of there.

22 And that I assumed, you know, almost by

1 accident because there was no one else there really  
2 to do it at that time, at the governor's mansion,  
3 so --

4 Q Before you moved to the governor's mansion,  
5 where were you located?

6 A The governor's office in the state  
7 capitol.

8 Q Where was that office in relation to his  
9 actual physical office?

10 A That office was about two doors away from  
11 his office, down the hallway.

12 Q What were the offices between your office  
13 and the governor's office?

14 A Directly on my side of the hall, the office  
15 next to his was his secretary.

16 Q And who was that?

17 A Linda Dixon.

18 Q Okay.

19 A And across the hall, and before my doorway  
20 was the chief of staff's office.

21 Q And who was that?

22 A Well, it changed during the course of the

1 time that I did scheduling.

2 Q How many times did it change?

3 A My recollection is that it changed -- how  
4 many times did it change or how many different  
5 people?

6 Q How many different people.

7 A There were four different people, possibly  
8 five. The last configuration was a little bit  
9 different when there were three in one-- kind of  
10 three chiefs of staff.

11 Q What were their names?

12 A Which ones?

13 Q The different people who held the  
14 position.

15 A Betsey Wright, Henry Oliver, Jim Fletcher.

16 Q What was the third one?

17 A Jim Fletcher.

18 Q Anyone else?

19 A Did you get Henry Oliver?

20 Q Yes.

21 A And at the end, it was a triumvirate.

22 First, there was a triumvirate, then there were two,



1 of Bill Bowen and Carol Rasco and Gloria Cabe, and  
2 then Gloria Cabe left the governor's office, and then  
3 it was just Carol Rasco and Bill Bowen.

4 Q Did you receive visitors for the governor  
5 when they came to visit?

6 A Yes, I did.

7 Q Did you receive every visitor that came to  
8 see him at the office?

9 A Certainly most of them. I don't know --  
10 saying every visitor, I don't think I can say I saw  
11 or received every visitor, no, because I wasn't  
12 there, you know, 100 percent of the time, but  
13 certainly most of them.

14 Q Generally, you would receive visitors who  
15 had appointments?

16 A Yes.

17 Q Did the governor have many people who came  
18 to see him without appointments?

19 A He did. Especially during legislative  
20 sessions.

21 Q Would you receive those people, as well?

22 A Yes, I would.

1 Q During the time that you were in the  
2 governor's office, did you have occasion to meet a  
3 Jim McDougal?

4 A I'm sorry, say that again.

5 Q During the time you were working in the  
6 governor's office, did you have occasion to meet  
7 Mr. Jim McDougal?

8 A During the time I worked in the governor's  
9 office, did I have the occasion to meet Jim  
10 McDougal?

11 Q Correct.

12 A No, not under those circumstances.

13 Q Did you meet him under any circumstances?

14 A What do you mean by "meet"?

15 Q Well, have contact with him, you know, in  
16 person.

17 A Not that I recall. But I could have, I  
18 just don't recall it, frankly.

19 Q So you don't recall whether or not you ever  
20 received him to go see the governor?

21 A That's correct. I do not recall that.

22 Q Did you have any contact with him during

1 that time period?

2 A Frankly, I don't recall the contact with  
3 Jim McDougal. Although I probably, you know, may  
4 have had a phone call or two from him, I frankly do  
5 not recall it, if that's what you are asking.

6 Q Well, you recall that it happened; is that  
7 right?

8 A Well, that I actually took a call from Jim  
9 McDougal?

10 Q Correct, or had any conversations or  
11 contact with him.

12 A Let me just think about it because I do not  
13 recall having conversations with Jim McDougal,  
14 frankly.

15 Q Take your time.

16 A I am aware that Jim McDougal had, you know,  
17 probably had a modified contact with the President or  
18 that there is a record of that, or with the  
19 governor. But that -- that I actually had contact  
20 with him, I don't -- with Jim McDougal, I don't  
21 recall having conversations with Jim McDougal.

22 MR. COLE: Ms. Hernreich, we are not trying

---

1 to trick you or quiz you or make this a memory test.

2 THE WITNESS: I am trying to be accurate.  
3 Honestly, the very bottom line is I don't really  
4 recall talking to Jim McDougal. If you want to know  
5 something else, then ask it. If you are asking me if  
6 I ever talked to Jim McDougal, I do not remember  
7 talking to Jim McDougal.

8 BY MR. O'CALLAGHAN:

9 Q Okay. Did you ever see him at the  
10 governor's offices?

11 A I do not remember ever seeing him at the  
12 governor's office.

13 Q Did you ever see him at the mansion?

14 A No, I did not see him at the governor's  
15 mansion.

16 Q How about -- similar question, any  
17 conversation with Susan McDougal during that time  
18 period?

19 A Yes, I do recall Susan.

20 Q And what do you recall about that?

21 A Just that she had called, and I think about  
22 meeting or seeing the President or the governor at

1 the time, but I do recall talking to Susan McDougal.

2 Q Do you recall when that occurred?

3 A No, I don't. I don't recall when it was.

4 I would imagine that was relatively early after I  
5 began work there, you know, within the first year.

6 Q Okay. And did she actually meet with the  
7 governor?

8 A I don't remember if she did.

9 Q Do you remember if you had --

10 A I don't recall that she did.

11 Q Do you remember if you ever saw her at the  
12 governor's offices?

13 A Susan? I really don't remember.

14 Q Are you aware of the substance of any  
15 conversations that the governor had with Susan  
16 McDougal?

17 A No, I am not aware of the substance of any  
18 conversations that the governor had with Susan  
19 McDougal.

20 Q How about with regard to written  
21 correspondence, were you in receipt of any written  
22 correspondence from Susan McDougal?

1 A Not that I can remember.

2 Q How about Jim McDougal?

3 A Not that I can remember.

4 Q Were you ever asked to schedule meetings  
5 with the governor and Mr. McDougal outside of the  
6 governor's office?

7 A Outside, not that I remember. That's  
8 another one that I don't remember doing, scheduling a  
9 meeting with Mr. McDougal, and -- outside of the  
10 governor's office.

11 Q Just to make it easier, do you recall  
12 scheduling any meetings with Mr. McDougal and the  
13 governor?

14 A I don't remember it, no.

15 Q How about Susan McDougal, do you recall  
16 scheduling meetings between the governor and Susan  
17 McDougal?

18 A No, I don't remember.

19 Q Did you do any scheduling for Mrs. Clinton?

20 A No, I did not.

21 Q Who did that?

22 A Only as it related to -- let me back that



1 up. If it was the two of them having to go to one  
2 event together, then I would have done something that  
3 related to her, too. But I did not do scheduling for  
4 her.

5 Q Did you do any scheduling for both of them  
6 where they met with either one of the McDougals?

7 A Not that I recall.

8 Q Are you familiar with anyone by the name of  
9 R.D. Randolph?

10 A Well, I am familiar with the name, yes.

11 Q And how are you familiar with the name?

12 A Well, because I have been shown documents  
13 by the FBI and by, you know, the Independent  
14 Counsel's office, of a memo that I had written that  
15 had his name on it.

16 Q Independent of other people showing you  
17 that memo, do you have independent recollection of  
18 who Mr. Randolph is?

19 A Not really. Let me just tell you that --  
20 and I have said this to the others, too -- if he  
21 walked in the room I am not sure I could pick him  
22 out, frankly. But I have a general knowledge of who

---

26

1 he is, you know, but I certainly did not have much  
2 contact with him. And I -- again, it is not --  
3 knowing the name, I have a vague recollection of who  
4 he is. That's about it.

5 Q And what's your general knowledge of who he  
6 is and what he does?

7 A Well, I don't know who he is, frankly, or  
8 what he does. Since I have seen this memo, I now  
9 know kind of what he did at -- I don't know much of  
10 what he did. I do know he came into the governor's  
11 office one time, and I think the memo indicates that  
12 he had asked for a call, something to that effect.

13 But I don't have any idea what the man does  
14 for a living. I have the sense that he is some sort  
15 of a lobbyist, but he may not be. I have no idea  
16 really what he does.

17 Q You said he came to the office and asked  
18 for a call. What are you referring to?

19 A Well, I don't recall this necessarily. I  
20 just know that I have been shown a memo with his name  
21 on it that indicates that.

22 Q Okay. This might be a good time for me to



1 identify a document which is probably similar --  
2 probably the same one you are referring to. I am  
3 going to describe it in detail because we are doing  
4 this over the telephone, and if you have any  
5 questions about what I have read or if I am going too  
6 fast, please let me know. And then I will ask you  
7 some questions about what I have read to you and just  
8 answer to the best of your ability.

9 A Okay.

10 Q What I have before me is a one-page  
11 document which bears the Bates stamps that we have  
12 been provided, DKS N 018008. It appears to be a memo  
13 with a "to" section on the top of masthead "to: BC";  
14 and to the right of that is a date, handwritten,  
15 4/14. The line below that reads "from:" and the  
16 initials appearing after that are "NH."

17 A Let me stop you for a second. I thought  
18 you had indicated that the NH are my initials and  
19 that you said earlier that if they were documents  
20 that I produced, that -- if they were not produced by  
21 me, you couldn't fax them to me, but that one was.

22 MR. COLE: When we used "produce," it's a

1 lawyer's term of art meaning the lawyer who provided  
2 document to the Special Committee, that is who  
3 produced it. And in this case the document, I don't  
4 mind telling you, was produced by Williams &  
5 Connolly, David Kendall, and so that's what we meant  
6 when we said you didn't produce it. We weren't  
7 indicating that you didn't prepare the document.

8 THE WITNESS: I got it. Okay.

9 BY MR. O'CALLAGHAN:

10 Q Okay. I will continue describing it to  
11 you.

12 A Okay.

13 Q Then there is a "re:" line which reads  
14 "R.D. Randolph's visit," and then there is a box  
15 which includes a number of different directions,  
16 which included "immediate action, draft reply for  
17 governor," and a number of other directions which  
18 none of the boxes have been checked. And then the  
19 next section reads, heading is "remarks." And I will  
20 read this slowly and let me know if you want me to  
21 stop at any time, okay?

22 A Okay.

1       Q    It reads "Mr. Randolph dropped by to see  
2 you this morning to talk to you about the water bill  
3 you vetoed. He said that he talked to you on Sunday  
4 morning. He wants to know if the veto is going to  
5 stand. He would," and I believe it is -- there is a  
6 typographical error, it reads o-w-u-l-d, but I  
7 believe the logical reading is "he would like" --  
8 once again, typographical error, l-i-i-k-e -- "to  
9 call Jim Guy Tucker about this. He said that he has  
10 a difficult time getting an answer from you (he  
11 mentioned a meeting between you, Tucker and Jim  
12 McDougal a couple of years ago, which involved  
13 \$33,000. This was pretty cryptic). He seemed  
14 angry. Someone, I think he prefers you, needs to  
15 call Tucker."

16           Then there are some handwritten notes with  
17 an arrow, and some script which looks like u-g-h  
18 underlined, or n-g-h underlined, I can't see which.  
19 And one says "cc SB 4/15," and then there is another  
20 handwritten notation which says "see if Sam will call  
21 him."

22           Are you familiar with the document that I

---

1 just described to you?

2       A    It sounds like a document that I have been  
3 shown by the FBI and by others.

4           MR. COLE: Ms. Hernreich, this is Lance  
5 Cole. And this is difficult because we can't show  
6 you the documents, but of all the parts of the  
7 document Mr. O'Callaghan read to you, there is one  
8 portion that is has been written that follows the  
9 typewritten portion and does appear to be an arrow.  
10 And then there are some records or letters, maybe one  
11 word underlined in a very difficult to read  
12 handwriting that I am guessing may be the  
13 President's, but that's just a guess.

14           But I am wondering, notwithstanding the  
15 fact that you don't have this document in front of  
16 you, in view of the fact that you have been shown it  
17 before, by the Independent Counsel and perhaps  
18 others, whether you have any recollection as to what  
19 the President's note, if it is his note, says.

20           THE WITNESS: The document I have been  
21 shown before, it said "ugh."

22           MR. COLE: "Ugh," is that what it says?

1 THE WITNESS: That's correct.

2 BY MR. O'CALLAGHAN:

3 Q Was that a notation he used often?

4 A No, he didn't use it often.

5 Q Can you explain why you think it says

6 "ugh"?

7 A Why do I think?

8 Q Is it your just reading of his writing?

9 A Pardon me?

10 Q Was it just your reading of his writing or  
11 do you have a reason to believe it says "ugh"?

12 A It is a reading of his handwriting.

13 Q Do you recall writing a message to the  
14 governor with regard to Mr. Randolph visiting?

15 A Very vague. But, I have a recollection,  
16 especially now having seen that a couple of times and  
17 having read about it, I think, in a newspaper  
18 article, so --

19 Q Is it your understanding that Mr. Randolph  
20 came by to see the governor on April 14, 1987?

21 A I don't know if that's the date he came or  
22 not.

1 Q This document is dated 4/14?

2 A I would assume so, but I don't -- you know,  
3 that's sort of -- that's all I have that indicates it  
4 would have been when he came. I don't know.

5 Q There is a check mark on the first line of  
6 the document, after the "to," and then the "BC"  
7 section.

8 A You said 1987?

9 Q Yes. Is that the right year?

10 A I don't know.

11 Q Okay. The top part of the document says  
12 "to: BC" and there is a check mark on the top line.

13 Do you know what that refers to? It is a  
14 handwritten check mark.

15 A Refers to Bill Clinton.

16 Q Would that have been a check mark he made?

17 A Probably, yes. The memo I have seen  
18 before, it did look like his check mark.

19 Q Is that how he indicated whether he had  
20 received something?

21 A Yes.

22 Q Do you have any recollection as to whether

1 Randolph told you the substance of a discussion he  
2 might have had with the governor on the Sunday that's  
3 referred to in this note?

4 A I have no recollection that he told me  
5 anything. And since he said that it was -- the whole  
6 thing -- the later part I said it was pretty cryptic,  
7 but I have no recollection he told me about it,  
8 anything other than what I wrote there, frankly.

9 Q Just so we are clear, this is a note you  
10 wrote?

11 A Pardon me?

12 Q I just want to make sure we are clear this  
13 is a note that you wrote.

14 A I believe so, since it says "NH" yes.

15 Q That's how you identified yourself in  
16 memos?

17 A Yes.

18 Q Were there any other NHs in the governor's  
19 office?

20 A I don't think so.

21 Q There is a section of this note, a  
22 parenthetical, which reads "he mentioned a meeting

1 between you, Tucker and Jim McDougal a couple of  
2 years ago which involved \$33,000,"; then, "this was  
3 pretty cryptic."

4 Other than what's written on the note here,  
5 do you have any recollection of what he was referring  
6 to in that conversation?

7 A No, I don't.

8 Q Any mention of a fundraiser mentioned in  
9 that conversation?

10 A Not that I recall.

11 Q Any mention of Madison Guaranty in that  
12 conversation?

13 A Not that I recall.

14 Q Then it says "he seemed angry." Do you  
15 recall what he was angry about?

16 A No, I don't.

17 Q Then it reads "someone," and it says "I  
18 think he prefers you, needs to call Tucker."

19 Do you have any knowledge of whether anyone  
20 called Tucker in response to this note?

21 A I do now because I have seen follow-up  
22 memos to indicate that somebody had called or



1 somebody -- I don't know if it was Tucker, but they  
2 called somebody.

3 Q Who is Tucker?

4 A Jim Guy Tucker.

5 Q And who did you become aware called him?

6 A Well, Sam Bratton called somebody and that  
7 was another memo you were discussing at the beginning  
8 that indicates that, but -- so I don't necessarily  
9 recall that that occurred, but I have just seen that  
10 memo, that's what I gleaned from that. I think  
11 that's what Sam indicated that he called somebody. I  
12 don't even recall who it says he called. Whether he  
13 called Randolph or Tucker, I don't remember.

14 Q Did he call him about a water bill that the  
15 governor had vetoed?

16 A What did you ask me?

17 Q Whether the phone call was with regard to a  
18 water bill that the governor vetoed.

19 A I think so, but without this memo, without  
20 you rereading that memo to me that Sam wrote back and  
21 I was copied on, I wouldn't -- I couldn't guarantee  
22 it. But I think that's -- I think that's what it was

---

1 about.

2 Q Do you know if the governor ever called  
3 Mr. Tucker about water legislation -- water bill  
4 legislation?

5 A No, I do not know.

6 Q Are you familiar with anyone named Diane  
7 who was working in the governor's office at the time?

8 A At that time?

9 Q Yes.

10 A Yes.

11 Q Who was that?

12 A She was my assistant.

13 Q What was her last name?

14 A Drimmatt.

15 Q Spell that.

16 A D-r-i-m-m-e-t-t, I believe.

17 Q Did she assist you in your scheduling?

18 A Pardon me?

19 Q Did she assist you in scheduling?

20 A Yes, she did.

21 Q Where was her office located?

22 A Her office was in the same office as mine;

1 we shared an office.

2 Q Did she also receive visitors?

3 A Only if I wasn't there. She was primarily  
4 a secretary.

5 Q Do you know where Ms. Drimmett is working  
6 now, if she is?

7 A I think she is working for the Arkansas  
8 State Police.

9 Q Do you know where she lives?

10 A She lives in Little Rock.

11 Q Little Rock. Do you have any knowledge of  
12 whether State Representative Walker ever called for  
13 an appointment with the governor at this time?

14 A Without knowing that, I have seen the memo  
15 that indicates that I think he stopped by -- no, or I  
16 think -- I don't remember if he called or stopped  
17 by. I have seen a memo that indicates that he  
18 followed up on that at some point, that request by  
19 Randolph, I believe. Again, without seeing it, you  
20 know, I certainly don't remember independently of  
21 looking at those memos, I will tell you.

22 Q Do you have an independent recollection

---

1 whether he came by the offices during that time  
2 period?

3 A I can't remember whether he came by. I  
4 don't have any recollection of that. I don't  
5 remember from the memo whether he came by or he  
6 called.

7 Q Okay. Just generally, do you know if  
8 Representative Walker came by to see the governor in  
9 April or May of 1987?

10 A I don't have a personal recollection of it,  
11 no. But again, there was a memo that indicates that  
12 either he came by or called, or something, sometime.

13 Q Other than the visit by Mr. Randolph that's  
14 identified in the document I just described to you,  
15 the 4/14 message to the governor, did Mr. Randolph  
16 come by the office at any other time during April  
17 through June of 1987?

18 A Gosh, I don't have the foggiest idea.

19 Q How about Jim Guy Tucker, was he in the  
20 office during that time period?

21 A I don't remember that he was.

22 Q Did he ever stop by?

1 A No. He wouldn't --

2 Q Excuse me?

3 A I said no, it would not be something he  
4 would do.

5 Q Why is that?

6 A I don't know. It just isn't something I  
7 ever recall him doing.

8 Q Did you ever talk to Sam Bratton about  
9 Mr. Randolph's stopping by?

10 A I assume I did from looking at those  
11 memos. I may not have, but I may have just sent him  
12 copies of memos rather than talking to him, but I  
13 assume that I probably did.

14 Q Do you recall any contents of conversations  
15 you might have had with him on the subject?

16 A No, I don't.

17 Q Are you familiar with an entity that was  
18 called Castle Sewer & Water?

19 A No.

20 Q Have you ever heard that before?

21 A I can't remember if it is in that memo Sam  
22 wrote or not, but I don't -- Castle Sewer & Water, I

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1 am not familiar with that. There may have been a  
2 memo that had something in there, but I can't  
3 guarantee that. I am not familiar with it.

4 MR. CEARLEY: Are you saying Capital or  
5 Castle?

6 MR. O'CALLAGHAN: I was about to clarify, I  
7 said Castle. Castle, like a medieval castle.

8 THE WITNESS: It still doesn't matter.

9 I believe, though, that since someone has  
10 also asked me, I think in that related memo that Sam  
11 wrote or something about Castle Grand -- then after a  
12 while you get -- you don't know -- one doesn't know  
13 if one has read in a memo that the FBI has given or  
14 read it -- something in a newspaper about it or, you  
15 know, but independent of recent, you know, reminders,  
16 I certainly have no knowledge of Castle Sewer &  
17 Water.

18 MR. O'CALLAGHAN: Okay.

19 MR. COLE: Bear with us a moment.

20 Mr. O'Callaghan is looking through his documents  
21 here.

22 MR. O'CALLAGHAN: Excuse me. Thanks.

1 (Pause.)

2 BY MR. O'CALLAGHAN:

3 Q I have one or two more questions on this  
4 issue, Ms. Hernreich with regard to the document I  
5 described to you, did you have any follow-up  
6 discussions with the governor with regard to  
7 Mr. Randolph's visit?

8 A I certainly don't recall it. Which  
9 document were you talking about? The document that  
10 Diane wrote?

11 Q No, the document that you wrote.

12 A Gosh, yes, I have absolutely no idea if I  
13 had any follow-up discussions with the governor about  
14 it.

15 Q Did you discuss Mr. Randolph's visit with  
16 anyone -- you said you might have talked about it to  
17 Sam Bratton, but anyone other than that that you  
18 might have talked to about the visit?

19 A I probably discussed it with Betsey Wright.

20 Q What would your discussion with her have  
21 been?

22 A I don't recall. Oh, would have been?

---

1 Q Yes.

2 A Well, I think having looked at that memo  
3 and identified already that I think she is the one  
4 who wrote on there, at any rate, for me to have Sam  
5 call. On that first memo it said something to the  
6 effect of have Sam call, something like that.

7 Q She is the "see if Sam will call him"  
8 notation?

9 A Yes, that's Betsey Wright's handwriting. I  
10 assumed, then, that I either talked to her or I may  
11 have just had -- I may have just taken the note -- I  
12 may have just taken the note and not had any  
13 conversation with her about it.

14 Q Is there a possibility the governor could  
15 have given her the note also?

16 A What note?

17 Q The note -- the note you wrote to the  
18 governor, excuse me.

19 A I don't know what you are asking. The  
20 governor gave her the note?

21 Q Excuse me, the memorandum that has her  
22 handwriting which says "see if Sam will call him."



1 A Well, all documents, all paper to the  
2 governor went through Betsey Wright, and all paper  
3 coming from the governor went through Betsey Wright.

4 Q So her role was as a gatekeeper of the  
5 documents; right?

6 A Correct. At least all of my paper went  
7 through her.

8 Q Did you have any discussion with the  
9 governor with regard to the parenthetical sentence  
10 regarding the meeting between Tucker, Jim McDougal  
11 and the governor a couple of years ago which involved  
12 \$33,000?

13 A Could you repeat that? I missed the very  
14 first part of what you asked me.

15 Q Sure. Whether you had any discussions with  
16 the governor with regard to the parenthetical  
17 sentence which identifies a meeting between the  
18 governor, Tucker and Jim McDougal a couple of years  
19 ago which involved \$33,000?

20 A No, I do not recall having any discussions  
21 with the governor about that.

22 Q Did you have any discussions with anybody

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1 about that?

2 A Not that I recall.

3 Q Do you recall if you had a discussion with  
4 Betsey Wright about it?

5 A I don't recall having a discussion with  
6 Betsey Wright.

7 Q And if I follow up with a question with a  
8 name, it is usually just meant to help refresh your  
9 recollection.

10 A Pardon me?

11 Q If I follow up a question that you said you  
12 don't have a recollection of with a specific name, I  
13 am only do it to try to help refresh your  
14 recollection.

15 A Okay.

16 Q Okay?

17 A Sure.

18 Q Ms. Hernreich, do you know who Dan Lasater  
19 is?

20 A Yes, more or less. Frankly, I am not sure  
21 I have ever met him, but I certainly know his name.

22 Q And how do you know his name?

1       A   Well, his name was in the paper for a long  
2 time, and so -- you know, related to a drug trial.

3       Q   During the time that you were scheduling  
4 and receiving people for the governor in the  
5 governor's office, did you ever schedule any meetings  
6 between the governor and Mr. Lasater?

7       A   No, I never scheduled, that I recall, any  
8 meetings between the governor and Mr. Lasater.

9       Q   How about schedule any meetings at  
10 Lasater & Company?

11      A   At Lasater & Company?

12      Q   Correct?

13      A   Not that I recall.

14      Q   Any meetings involving the governor and  
15 anyone from Lasater & Company?

16      A   Not that I recall.

17      Q   Did you ever schedule any meetings with the  
18 governor and Patsy Thomasson during that time period?

19      A   Not that I recall. Patsy was, for a long  
20 time, was on the Highway Commission, and she may have  
21 attended some function or -- with the Highway  
22 Commission. But a flat, straight, one-on-one meeting

1 with Patsy Thomasson and the governor, I certainly  
2 don't remember.

3       Q   You said you began scheduling September of  
4 1985; is that right?

5       A   Yes.

6       Q   Okay, thanks.

7       Did you schedule any meetings with the  
8 governor and anyone by the name of Michael Drake?

9       A   Not that I recall.

10      Q   Did you ever receive any visitors for the  
11 governor from Lasater & Company?

12      A   Not that I recall.

13      Q   So you have no recollection whether  
14 Mr. Lasater ever visited the governor at his office?

15      A   I don't have -- to my recollection, I don't  
16 recall ever meeting Mr. Lasater, so I don't recall  
17 that I ever received him as a visitor, as a visitor  
18 to the President.

19      Q   But if he had come to the office, he would  
20 have -- he would have been brought in by you, if he  
21 had been by?

22      A   If I was there; if I wasn't there, he would

1 not have been.

2 Q If you weren't there, Diane would have done  
3 it?

4 A Could have, or it could have been Betsey  
5 Wright, or -- or I guess then, in a very remote  
6 sense, it could have been Linda Dixon, sometimes.  
7 Very seldom, but every once in a while, she would  
8 have people visit her personally. And if the  
9 governor -- if they were back in her office and she  
10 saw him, then he would stop by and say hi there.

11 Q Did you do scheduling for anyone other than  
12 the governor?

13 A No. During that time?

14 Q Yes.

15 A No.

16 Q Did you schedule any meetings between the  
17 governor and anyone who was working with the Arkansas  
18 Development Finance Authority or Arkansas Housing  
19 Development Agency?

20 A I am sure I did. You know, I can't say I  
21 am sure, I have no recollection of it. But Bob Nash  
22 was a member of our staff for a long time, and so I

1 would assume that, at some point or another, I  
2 scheduled some sort of meeting between him and the  
3 President, because it was an agency of the  
4 government. I mean, at least that's my recollection,  
5 that it was a state agency.

6 Q Are you familiar with the name Paul Young?

7 A Paul Young?

8 Q Yes.

9 A No, I am not familiar with that.

10 Q How about Steven Claiborne?

11 A No.

12 Q Robert Snyder, or Bob Snyder?

13 A I am not familiar with it.

14 Q How about Bobby Allison?

15 A I know Bobby Allison.

16 Q How do you know Bobby Allison?

17 A Well, I have known him for years. I have  
18 known him for years. He was a friend of my  
19 ex-husband.

20 Q Do you know if, while you were at the  
21 governor's mansion, whether the governor or  
22 Mrs. Clinton flew on any airplanes owned by Lasater &

1 Company or Dan Lasater?

2 A No, I don't know of him flying on any  
3 planes provided by Dan Lasater, certainly when I did  
4 the scheduling.

5 Q If they were flying on a plane, would you  
6 normally note that on the schedule?

7 A Yes, I would.

8 MR. O'CALLAGHAN: I am going to move on to  
9 another subject area. Actually, could you hold for a  
10 moment. I think we have a pickup on the  
11 transcription here.

12 THE WITNESS: Okay.

13 (Discussion off the record.)

14 MR. COLE: We are entering a new subject  
15 area.

16 BY MR. O'CALLAGHAN:

17 Q I would like to ask you some questions  
18 about your activities since you have joined the staff  
19 of the White House.

20 A Okay, I will do my best to answer them, but  
21 I think we may be moving into an area that might be  
22 possibly privileged; then I may not feel comfortable

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1 answering those without some specific guidance from  
2 the White House.

3 MR. COLE: Where a question comes up where  
4 you want to seek guidance from the White House, we  
5 will certainly accommodate that, but I suspect they  
6 are questions that won't pose difficulties to you, so  
7 why don't we see if we can work through them?

8 THE WITNESS: Okay.

9 BY MR. O'CALLAGHAN:

10 Q The first question is as to background.  
11 What type of work you do, what do your  
12 responsibilities entail in your present position?

13 A My duties are pretty wide-ranging, but  
14 primarily I operate as a gatekeeper for the President  
15 concerning all visitors and paper. I also officially  
16 run his office, and -- so we are basically assistants  
17 to the President, executive assistants.

18 Q When you say "run his office," could you  
19 describe that a little more fully?

20 A Basically supervise people, for instance,  
21 his secretary and receptionist, the President's aide,  
22 people that handle his personal correspondence. So



1 basically when I say "run his office," I supervise  
2 those people who handle -- you know, who -- or assist  
3 him in more of a personal way like that.

4 Q So you pretty much function as an office  
5 manager?

6 A Yes, basically for the immediate office of  
7 the President's staff.

8 Q And you said you were gatekeeper for  
9 visitors and paper. Could you describe more fully  
10 what you mean by gatekeeper of all the paper?

11 A I mean, if people want to get paper to him  
12 it primarily goes through the staff secretary, but if  
13 the -- the staff secretary would bring it to me, and  
14 then I would get it to the President. And if there  
15 is other particular documents that, you know, people  
16 want to get to him, then it would come through me.

17 I guess certainly there are circumstances  
18 where people could hand it to the President, but if  
19 it is handled through the office, then it will come  
20 here first because they would not have access to go  
21 in there and hand it to him.

22 Q If somebody wants to give the President a

1 document, it's got to go through you first; is that  
2 right?

3 A Probably not a hundred percent of the time,  
4 but it should, you know. If people are in there  
5 visiting him on something else and they hand him  
6 something, then obviously I wouldn't know about it,  
7 but generally, yes.

8 Q I would like to ask you some specific  
9 questions as to your -- the best you can characterize  
10 your daily movements at work, where generally you  
11 move in and out of the different areas of the White  
12 House, where your work takes you.

13 A Okay.

14 Q Generally, where is your main work area?

15 A I have a small office off the secretary's  
16 office right outside the Oval Office.

17 Q What percentage of your time do you spend  
18 in your office?

19 A At least -- I would say at least 80  
20 percent.

21 Q How about the other 20 percent, where do  
22 you normally --

1       A    I would be in meetings and in the Roosevelt  
2 Room, something like that. Most, physically, of my  
3 time is spent here.

4       Q    Other than the Roosevelt Room, do you have  
5 occasion to go to other parts of the White House for  
6 your job?

7       A    Rarely, but I do. Yes, I have. I can move  
8 around, but I don't. Frankly, if you are the  
9 gatekeeper and the President is here, then I need to  
10 be here, so I normally stay in my office.

11      Q    You've got to be by the gate; right?

12      A    Yes.

13      Q    Do you have any occasion to go into the  
14 residential section of the White House?

15      A    Very rarely, but I do.

16      Q    Over the course of the time period you have  
17 been in your new position, as Director of Oval Office  
18 Operations -- I think you said you started doing that  
19 in September of 1994 -- can you identify how many  
20 times you have been in the residential section of the  
21 White House?

22      A    No. I would say maybe -- if it -- if it

1    entailed -- let me just expound a little bit.

2       Q    Sure.

3       A    When I have done the same job, the title  
4 has been different, but I have done the same job  
5 since January of 1993. So let's clarify that; it is  
6 the same job.

7       Q    Okay.

8       A    Then number two, the President will  
9 periodically have meetings in the White House  
10 residential section. Now, I don't know if you mean  
11 by the residence anything that's on all four or five  
12 floors over there, including the ground floor where  
13 he has meetings, for instance, in the bathroom or in  
14 the library, or would I have occasion to go to the  
15 usher's office or something else? What do you mean  
16 by the residence?

17      Q    I can narrow it down to the second and  
18 third floor.

19      A    Of the house?

20      Q    Correct.

21      A    Oh, maybe once every two weeks, maybe once  
22 a week, maybe once every two weeks.

1 Q What will you generally be doing when you  
2 go over there?

3 A I would generally be moving the President  
4 in or out of a meeting.

5 Q Keeping him on schedule?

6 A Yes.

7 Q Other than moving him in and out of the  
8 meetings on the second and third floor, did you have  
9 any other reason to go up there?

10 A Hardly ever. Let me think about that. I  
11 mean --

12 Q Sure.

13 A -- if I would have any reason to go to the  
14 second or the third floor. Social activities,  
15 sometimes we are invited up to the solarium to see  
16 somebody or to see -- usually at the times -- I have  
17 been up there several times and it is usually related  
18 to something social.

19 The one time that I can recall I have been  
20 and looked at the -- some gifts that were kept up  
21 there, but -- and I periodically have to go look for  
22 something for the President, usually on the second

1 floor if he left it over there. And, you know, if he  
2 left a paper, his papers or a book or something he  
3 needs, then I will go there.

4 I would also -- if we had a meeting in the  
5 residence, I would take guests in or out of meetings  
6 with him. And, you know, I possibly may meet house  
7 guests or something over there. Usually guests would  
8 be staying on the second floor; normally I would go  
9 to the second floor if I had to see them about  
10 something. And there have been a couple of social  
11 occasions on the second floor, too, where people have  
12 been invited up after an event or something like  
13 that.

14 Q Okay. Do you ever have occasion to -- when  
15 you have to move the President along for meetings, do  
16 you ever have to get him out of the exercise room on  
17 the third floor?

18 A No, I never have. I may have called up  
19 there to move him, but I have never been in there.

20 Q Okay. How much time would you say he  
21 spends there typically?

22 A In the exercise room?

1 Q Yes.

2 A I don't know. I don't know about that.

3 Q I would like to direct your attention to a  
4 more specific time period, specifically July of 1995  
5 through -- let's say, July 20th of 1995 through  
6 August 10 of 1995. And the first general question  
7 is, do you have any recollection of going up to the  
8 second or third floor during that time period?

9 A Second or third floor, July 20 through  
10 August 10. To the second or third floor?

11 Q Correct.

12 A I would have to look at a calendar and see  
13 if I did, see if there was a meeting over there. I  
14 would have to look at a calendar and see. I don't  
15 personally have any specific recollection, but I  
16 would have to look it up.

17 Q I've got some documents here which may  
18 assist you in helping you recollect. Specifically,  
19 let me first ask you if you remember on July 21, 1995  
20 whether you went up to the second or third floor?

21 A I don't recall. Again, I would have to  
22 look at a calendar and see --

1 Q First, I have an official -- I have a  
2 one-page document which is an official Secret Service  
3 log of movements in the White House, dated Friday,  
4 July 21, 1995.

5 And for the record, it reads "F1 movement  
6 log"; and then, handwritten, it says "Friday,  
7 7/21/95." And then it has a chart which, on the  
8 left-hand side, has a listing of names; first says  
9 "Friday," and then the first two boxes on that say  
10 "the President," and then "the First Lady" in type  
11 print. Then there is a series of handwritten notes  
12 which identify names of people who have moved up and  
13 down within the residency. And then the columns to  
14 the right of that, there are a series of them that  
15 read up, down, up, down, up, down in succession.

16 And some of those have times listed for  
17 when people listed in the list either have gone up or  
18 down in the residency. And all the way to the  
19 right-hand side of the chart is a column dated --  
20 which states "location." And it lists location for a  
21 number of the different people, who were moving up  
22 and -- up and down the White House, or in and around



1 the White House on that day.

2 Approximately 13 rows down on the column  
3 that lists individuals, your name appears, it says  
4 "Nancy Hernreich" in handwritten notes, "plus five"?

5 A What was the last thing you said?

6 Q It says "Nancy Hernreich." It has a  
7 notation that says "plus five"?

8 A Okay.

9 Q And then in the "up" column, it says 12:30,  
10 the "down" column, it says 14:09. And my first  
11 question is, after my description of the document to  
12 you and the notation that's made on the document  
13 which references you, does that help refresh your  
14 recollection about whether on Friday July 21, 1995,  
15 whether or not you went up to the second or third  
16 floor of the residence?

17 A No. What do you think -- let me ask you  
18 something because you may know more about the  
19 document than I do. I am trying to -- does "plus  
20 five" mean five people went with me?

21 MR. COLE: Based on other logs we have  
22 reviewed, my guess is that perhaps you escorted five

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1 people up at that time.

2 THE WITNESS: 12:30.

3 MR. COLE: Correct, on Friday, July 21.  
4 And perhaps to further refresh your recollection, the  
5 logs indicate that at that time various members of  
6 the Rodham family were guests. Shows Tony Rodham  
7 Nicole Rodham, Mrs. Rodham and two people named  
8 Farrar --

9 THE WITNESS: Those are the President's --

10 MR. COLE: -- and Bensimmons. Those are  
11 the names listed if that helps to tie this to any  
12 particular event or meeting.

13 THE WITNESS: I do recall at some point  
14 having -- around that time of day, going up about  
15 that time, but I thought it was earlier in July,  
16 frankly, going up while Mrs. Clinton had lunch to  
17 discuss the President's birthday party with her. But  
18 I thought it was much earlier in July. My  
19 recollection, you know, end of June, first of July.  
20 12:30 to 14:09.

21 MR. COLE: Did others go with you on the  
22 occasion you went up to discuss with Mrs. Clinton the

1 surprise birthday party?

2 THE WITNESS: Pardon me? No, they were up  
3 there already. I thought they were already in there,  
4 so I didn't recall taking any of them up.

5 BY MR. O'CALLAGHAN:

6 Q When you went to discuss the birthday  
7 party, where did you go?

8 A To the kitchen.

9 Q Kitchen?

10 A On the second floor.

11 Q On the second floor?

12 A Yes.

13 Q How long did you meet with the First Lady?

14 A About that period of time. Maybe it was  
15 about an hour. Maybe an hour and a half. May have  
16 been just been 30 minutes, but with that -- generally  
17 I wouldn't spend that much time upstairs. I would  
18 go -- what I might -- it may have been something  
19 where I would have gone and taken people up and sat  
20 in the hall waiting to escort them back. There is a  
21 possibility I did that, but certainly I would just go  
22 take them and go back to my office. So the amount of

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1 time puzzles me.

2 Q There is also -- two names we forgot to  
3 mention on the log, there is a Carolyn Huber notation  
4 which has her going up at 10:14, then down 11:30,  
5 then up at 14:02. And I don't know if that helps  
6 refresh your recollection.

7 A No, it doesn't.

8 Q There is also Leon Panetta, 14:00 up and  
9 14:09 down. Do you recall if you went downstairs  
10 with Mr. Panetta?

11 A Well, no, I didn't, but that's  
12 interesting. So he went up at 14:02, came down  
13 14:09; he came down when I came down.

14 Q Correct. Excuse me?

15 A It must have been some sort of meeting that  
16 the President was involved in. And what I probably  
17 did is escort some people up and sit in the grand  
18 hall or the hall up there on the second floor and  
19 wait for them, to take them back down. But I would  
20 have to look at it, to figure out what it was.

21 Q I have another document here which might be  
22 helpful as well --

1 A Okay.

2 Q -- which is a less formal entry and exit  
3 log for the White House, second and third floors,  
4 from the usher's office --

5 A Okay.

6 Q -- on July 21. It's a one-page document on  
7 White House stationery, and it is entitled "Friday,  
8 July 21." Then it has a series of times listed,  
9 8:45, and it goes through, past -- appears to be the  
10 noon hour and toward the evening hour, 11:30. And on  
11 the bottom it lists house guests Hugh and Maria  
12 Rodham; Tony, Nicole, and Zachary Rodham and  
13 Mrs. Rodham, all listed on the third floor numbers.

14 Then there is a number of people listed  
15 next to the times, and some of which are the same as  
16 appear on the movement log which I just described to  
17 you, including Bensimmons, which is -- Bensimmons,  
18 excuse me. The Farrar name is there. 10:50, depart  
19 the White House, and then there is a number of  
20 notations that range from 12:25, 12:30 and 12:40 with  
21 the notation OTR to the left of that.

22 Do you know what that OTR refers to?

1 A It means off the record.

2 Q And when is that notation made on the  
3 usher's log, if you know?

4 A It means, if something is off the record,  
5 it is a private meeting the President is having.

6 Q Who makes the determination whether OTR  
7 should appear on the log?

8 A Usually the President -- the person who  
9 schedules the meeting would ask them -- tell them it  
10 is an off-the-record meeting.

11 Q Okay. There is an OTR reference, it is  
12 12:25 which reads "David Kendall plus one to the  
13 second floor." Do you recall seeing Mr. Kendall on  
14 the 21st of July?

15 A I don't recall seeing him, but I very well  
16 could have.

17 Q Okay. Did you escort him to the second  
18 floor of the White House, in July?

19 A I possibly could have.

20 Q Do you recall if you did?

21 A I don't recall, you know, because I didn't  
22 even know who was up there that day. But there have

1    been times when I have escorted Mr. Kendall up, yes.

2       Q    Did you ever escort him up to the third  
3 floor of the White House?

4       A    To the third floor?

5       Q    Correct?

6       A    No, not that I recall.

7       Q    Did you ever escort him up to the book room  
8 on the third floor?

9       A    The second floor. President's office is on  
10 the second floor.

11      Q    Do you know if you ever escorted him to the  
12 book room on the --

13      A    I never escorted David Kendall to the book  
14 room on the third floor.

15      Q    Right after the 12:25 entry, the Dave  
16 Kendall entry, another OTR entry which reads 12:30,  
17 and says "Abner Mikva and Nancy Hernreich to the  
18 second floor." Does that help refresh your  
19 recollection as to whether you went up to the second  
20 or third floor on the 21st of July?

21      A    Definitely.

22      Q    What is your recollection?

1       A    You want to know what that meeting is  
2 about?

3           MR. COLE: I think perhaps, since it is  
4 possible here that we all know these are attorneys  
5 for the President, both private and White House  
6 counsel's office, that first perhaps you just  
7 describe generally who participated at the meeting  
8 without getting into if you know what the subject of  
9 discussion was.

10          THE WITNESS: Thank you. I don't know the  
11 subject of discussion.

12          MR. COLE: So we won't have a problem  
13 there.

14          THE WITNESS: You are precisely right. I  
15 don't assume that -- that it was David Kendall and  
16 his assistant, and Abner Mikva; probably John if Jane  
17 Sherburne was there or not.

18          BY MR. O'CALLAGHAN:

19       Q    Where did the meeting take place?

20       A    Second floor of the residence. In the  
21 President's office called the Treaty Room. Or it is  
22 called the President's office.



1 Q Did you stay for the meeting?

2 A No, I did not stay for the meeting. I  
3 probably stayed in the hall or out by the elevator  
4 and waited for them.

5 Q Just so I have the benefit, there is  
6 another entry directly after the entry with you and  
7 Mr. Mikva entering on 12:30. There is another OTR  
8 entry and it says "12:40 Nancy Hernreich down" --

9 A Okay.

10 Q -- which would be consistent with you going  
11 right down afterwards. But then there is  
12 inconsistency with the other movement log which has  
13 you going down 2:09, 14:09.

14 A I really don't recall what happened that  
15 day, but if I had to make a guess about it, I would  
16 say then, that I took them up, and then I -- that I  
17 left and then went back to escort them out when they  
18 got ready to leave. And -- there is a possibility,  
19 in some meetings I do wait up there, and, you know,  
20 either sit in the hallway or sit out by the elevator  
21 and escort them back down when they are finished.

22 But I had -- probably had a general time

1 frame for that, and went back over when I saw that it  
2 was about time for the meeting to be over, and  
3 escorted them out.

4 Q Do you have a specific recollection of  
5 bringing Mr. Mikva up to that meeting?

6 A Not a specific recollection, no --

7 Q Do you recall --

8 A -- but I could have. I probably did. I  
9 just don't have a specific recollection on that day  
10 of taking Mr. Mikva up there, but I very well could  
11 have.

12 Q Did you bring Mr. Kendall up that day as  
13 well?

14 A I'm sure I did, yes.

15 Q Who else was part of that meeting?

16 A I would have to look at -- I don't know  
17 what I have to look at. I would have to ask people  
18 who might have notes of that particular meeting.

19 Q Would you have a record --

20 A I would imagine, I don't know if Jane  
21 Sherburne was there or not. I don't recall. David  
22 Kendall's assistant probably was there. Nicole or

1 the other lawyer, Nicole Seligman, but I don't know  
2 that for sure.

3 Q Would the assistants have been listed in  
4 the log showing entries?

5 A Would who have been listed?

6 MR. COLE: The log shows David Kendall plus  
7 one to the second floor. And then it's your  
8 testimony correctly you are speculating that perhaps  
9 that entry referencing David Kendall plus one might  
10 reference Mr. Kendall and his colleague, Nicole  
11 Seligman; is that correct?

12 THE WITNESS: Yes.

13 BY MR. O'CALLAGHAN:

14 Q Did any of the people you escorted up to  
15 the second floor that day have any documents with  
16 them?

17 A I don't recall.

18 Q Do you recall if they had any boxes with  
19 them?

20 A I do not recall any of them having any  
21 boxes.

22 Q Do you recall if they had any folders with

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1 them?

2 A I don't recall. Can I put you on hold a  
3 minute and talk to my attorney about this?

4 MR. O'CALLAGHAN: Certainly. Off the  
5 record.

6 (Discussion off the record.)

7 MR. COLE: Back on the record.

8 Did you have anything you wanted to add to  
9 your prior answer about whether people were carrying  
10 files or boxes of documents, is where we left off?

11 THE WITNESS: I don't recall.

12 MR. COLE: Okay.

13 BY MR. O'CALLAGHAN:

14 Q Are you there still?

15 A Yes.

16 Q Great. I guess the other question -- in  
17 July of 1995, did you have any occasion to go up to  
18 the third floor?

19 A Not that I recall. At some point, I went  
20 to the solarium once to see Nicole Rodham's new  
21 baby. And I don't remember in the solarium whether  
22 that was in July or not, early June sometime. And I

1 don't remember if this was the first trip they made  
2 to Washington after the baby was born. But at some  
3 point I went to the third floor of the solarium to  
4 see the baby.

5 Q Have you ever been to the book room up on  
6 the third floor?

7 A I'm not sure. I have been to a room where  
8 they keep gifts and maybe once or -- and so I may  
9 have been up there then.

10 Q Do you recall when you were up there?

11 A No. It's been -- it's been a good while.  
12 I am sure it's been well over a year.

13 Q You think it's been well over a year?

14 A Or even longer, yes.

15 Q Do you recall on what side of the -- what  
16 wing, what side of the building that room was in, the  
17 gift room?

18 A I sure don't.

19 Q Do you recall whether there were -- what  
20 rooms were adjoining that room?

21 A No, I don't.

22 Q What was the purpose of your visit to that

---

1 room?

2 A Looking at some of the gifts stored there.

3 Q Who did you go up there with?

4 A Either -- probably Capricia.

5 Q Capricia Marshall?

6 A Yes, Capricia Marshall.

7 Q How much time did you spend up there?

8 A Probably five minutes.

9 Q Anyone else with you?

10 A I don't know. Maybe Betty Curry may have  
11 been, but it may have been just me. It is a very  
12 vague recollection. I may have been by myself or may  
13 have been, you know, with Capricia actually. I think  
14 maybe Betty was with us.

15 Q Was this soon after you first got to the  
16 White House, was it a period of time after that?

17 A I don't think it was soon after we got to  
18 the White House. It's probably been a year or so, at  
19 least. Probably either around Christmastime, maybe a  
20 year ago at Christmastime.

21 Q Do you remember being around at a time when  
22 there was Christmas decorations up?

1 A No, but that would be a time we would be  
2 looking for gifts, wanting to know what the President  
3 could give people as gifts.

4 Q Have you ever been up to the exercise room  
5 on the third floor?

6 A No, I have not.

7 Q Have you spoken with anyone who told you  
8 that they were up on the third floor in and around  
9 the book room in July or August of 1995?

10 A Well, that told me they had been on the --  
11 up there in July or August?

12 Q July through August of 1995, yes.

13 A I have not spoken with anyone who has told  
14 me that.

15 Q Have you heard anybody has been up in the  
16 book room during the period, July/August 1995?

17 A I have read it in the newspaper.

18 Q What did you read?

19 A That Carolyn Huber was up there, and I  
20 think in August of '95.

21 Q Have you heard from any other source that  
22 anyone else was up there?

1 A No, I have not.

2 Q Have you heard from any other source that  
3 she was up there?

4 A No, I have not.

5 Q Excuse me if I have asked you this and this  
6 is a pretty basic question, but have you ever been up  
7 to the book room on the third floor?

8 A Well, I don't know. I think it is the same  
9 room where they keep the gifts.

10 Q You think it is the same room?

11 A I think so. I think that's what I read in  
12 the paper. But you know, I could have just made that  
13 up.

14 Q Is the gift room that you are familiar with  
15 in the west part of the White House?

16 A I don't know. I really don't know what  
17 side of the White House it is on.

18 Q Do you know if you are looking at  
19 Pennsylvania Avenue, if it was to your right or to  
20 your left?

21 A I don't know.

22 Q Did you see anyone else near the room where



1 you were looking at gifts the time you went up there  
2 other than Capricia Marshall?

3 A Ask me that again.

4 Q Whether you saw anyone else in the area of  
5 the room when you were looking at gifts.

6 A I think Betty Curry went with me.

7 Q Other than that, anyone else?

8 A No, I think when we were maybe at the  
9 second floor -- on the first floor, I think on the  
10 first floor, I saw -- when we came off the elevator  
11 on the first floor, we may have seen Mrs. Clinton.  
12 But that -- again, it's been a long time.

13 MR. COLE: And you are sure that that was  
14 not in the summer of 1995, it's been longer ago than  
15 that?

16 THE WITNESS: I feel certain it was longer  
17 than that.

18 MR. COLE: Thank you.

19 THE WITNESS: You can ask somebody else.  
20 Maybe they remember better than I.

21 BY MR. O'CALLAGHAN:

22 Q This is a question I -- do your best to

1 answer. It may seem a little difficult to answer,  
2 but I would appreciate if you could try to answer the  
3 best you can. The question is whether, in July or  
4 August of 1995, you saw anybody going up to the  
5 second or third floor of the residence with a stack  
6 of documents about an inch high, 11-by-17 inches, in  
7 measurements?

8 A I don't believe I saw anybody carrying a  
9 stack of documents like that to the second or third  
10 floor.

11 MR. COLE: I think perhaps we are getting  
12 near the end here.

13 THE WITNESS: Okay.

14 MR. O'CALLAGHAN: We are.

15 BY MR. O'CALLAGHAN:

16 Q I have one more document which is related  
17 to another subject which we touched on earlier, which  
18 is a handwritten note I wanted to read to you and ask  
19 you a couple of quick questions. I apologize. I  
20 meant to read it to you earlier, it got shuffled in  
21 with some of the other documents.

22 A Okay.

1 Q It is a one-page document, it has Bates  
2 stamps on it DKS N 0236545. And it is a handwritten  
3 note with a date 2/15 in the upper right-hand  
4 corner. And it's a note says to Kathy Gibson and  
5 then it is signed Goss. And I will read the text and  
6 ask you a couple of quick questions on it.

7 A What was the date, 2/15? There was a year  
8 on that.

9 Q There was not. Maybe the text of the note  
10 will help put it in place for you.

11 A May I say something?

12 Q Certainly.

13 A My recollection is Kathy Gibson was not  
14 working in the White House -- I mean, working in the  
15 governor's office when I was there.

16 Q Okay. That may well have been the case. I  
17 will read you the note.

18 A Okay.

19 Q It says "Kathy Gibson" and there is a  
20 slash, says "Nancy Hernreich supports former judge  
21 Bob Boyer filling vacancy that may be created should  
22 Judge Bernice" -- I believe it says "Kaiser actually

1 go through with her announced decision to retire."

2 Then the next paragraph reads "she also  
3 says that, Bobby Stephens," which is underlined,  
4 "president of Beverly Enterprises, acknowledged \$1000  
5 contributor to last fall's successful Sebastian  
6 Co" -- which I believe is county -- "breakfast wants  
7 and would be good for board of Arkansas Housing  
8 Development Authority/Arkansas Development Finance  
9 Agency." And then it is signed "Goss."

10 Who is Kathy Gibson?

11 A Well, again, she wasn't there when I was  
12 there, so I don't know exactly what her position was,  
13 but I -- I assume that she was an appointment -- she  
14 was an appointment to boards and commissions in the  
15 governor's office. But she was already gone when I  
16 went to work in the governor's office, so --

17 MR. O'CALLAGHAN: Okay.

18 BY MR. O'CALLAGHAN:

19 Q With respect to the signature that reads  
20 Goss, do you know who that is?

21 A What did you ask me?

22 Q The signature on the bottom reads Goss. Do

1 you know who that is?

2 A Kay Goss, I would assume.

3 Q Who is Kay Goss?

4 A She worked in the governor's office as a --  
5 you know, she had specific program areas and she had  
6 portions of the state that she was responsible for,  
7 just in terms of being a contact for them. And she  
8 was my contact from -- for my county into the  
9 governor's office.

10 Q And that's when you were organizing  
11 campaigns in Sebastian County?

12 A Could have been in the middle of a  
13 campaign, could have been in an interim year, I don't  
14 know. It could have been after a campaign. But once  
15 you did a campaign, you were sort of considered the  
16 person in the county; I did that and Henry Oliver did  
17 it, being acknowledged as the liaison for people in  
18 the county who wanted to get messages to the  
19 governor's office.

20 Q I guess the other question is, do you  
21 recall having conversation with Kay Goss about Bobby  
22 Stephens' candidacy for the Arkansas Housing

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1 Development Agency?

2 A I do not recall having a conversation with  
3 Kay Goss about it.

4 Q Do you recall having a discussion with  
5 Kathy Gibson about it?

6 A No, I do not recall having a discussion  
7 with Kathy Gibson about it.

8 Q Do you recall recommending Bobby Stephens  
9 or talk about his candidacy for Arkansas Housing  
10 Development Agency at any time?

11 A I recall -- yes, I recall that. I don't  
12 recall that really. I recall his wanting the  
13 position.

14 Q Okay, I'm sorry about that little  
15 diversion. I just have one more ultimate question  
16 with regard to July/August 1995 in the White House,  
17 and the question is whether you ever saw anyone with  
18 the Rose billing records?

19 A No, I have never seen anybody with the Rose  
20 billing records.

21 Q Do you know if anyone moved them into the  
22 book room in July or August 1995?

1 A Do I know if anybody what?

2 Q Put them in the book room on the third  
3 floor during July or August, 1995.

4 A I do not know that.

5 MR. O'CALLAGHAN: Thank you. I have no  
6 further questions at this time. Mr. Cole may have a  
7 couple of questions for you.

8 EXAMINATION

9 BY MR. COLE:

10 Q Ms. Hernreich, I will be very brief. As  
11 Mr. O'Callaghan indicated earlier, I am the Deputy  
12 Democratic Special Counsel for the Committee, and I  
13 want to ask follow-up questions about one area that  
14 Mr. O'Callaghan previously covered with you. And  
15 that's the memorandum that he described that's dated  
16 4/14 and was directed to then-Governor Clinton by  
17 yourself, regarding R.D. Randolph's visit, if you  
18 recall that document. And you testified that the  
19 handwritten notation on that document that has an  
20 arrow and then the word "ugh," you believed was  
21 Governor Clinton's handwriting and that the word was  
22 indeed "ugh"; is that correct?

---

1 A That's correct.

2 Q In looking at the document, which I  
3 understand this is difficult because you don't have  
4 it in front of you, the arrow goes from the portion  
5 of the typewritten paragraph in the document that  
6 says, "someone, I think he prefers you, needs to call  
7 Tucker." And I wanted to ask you a couple of  
8 questions about that. Jim Guy Tucker ran for  
9 governor against Bill Clinton in the early 1980s; is  
10 that correct?

11 A Yes, I think that is correct.

12 Q And I believe in 1982; am I correct in that  
13 date?

14 A He didn't -- yes. The way you phrase that  
15 is a little bit odd. He -- they all -- I wouldn't  
16 phrase it as he ran against him. They all ran for  
17 the same position.

18 Q They ran in the Democratic primary for the  
19 Democratic nomination for governor?

20 A That's correct.

21 Q And the reason I ask you that question is  
22 that I wanted to ask you if Mr. Tucker and



1 Mr. Clinton were at that time political rivals in  
2 Arkansas?

3 A What time?

4 Q In the 1980-1985 time period, '85, '86?

5 A I would say that they were probably  
6 political rivals in the 1982 Democratic primary.

7 Q And did -- were Governor Clinton and Jim  
8 Guy Tucker close personal friends?

9 A I don't know.

10 Q The reason I am asking you this question is  
11 that, as I read this note, it appears to me the "ugh"  
12 here may be -- the arrow goes directly to the part  
13 about needing to call Tucker. And so my question is,  
14 is it possible that the "ugh" relates to the sentence  
15 that says "needs to call Tucker" as opposed to rest  
16 of the memorandum that talks about a meeting which  
17 involved \$33,000?

18 A I'm sorry, I don't know. I don't know what  
19 it relates to. There is a possibility of that, sure,  
20 since he underlined it, but I just don't know.

21 MR. COLE: I don't have anything further.

22 THE WITNESS: Okay.

1 MR. O'CALLAGHAN: I have nothing further,  
2 either, other than thanking you for your time.

3 THE WITNESS: Okay, sure.

4 MR. O'CALLAGHAN: Mr. Cearley, do you have  
5 any clarifying questions, or Ms. Hernreich, would you  
6 like to add anything to the record?

7 THE WITNESS: I don't think so.

8 MR. CEARLEY: I appreciate your letting us  
9 do this by telephone. Thank you.

10 THE WITNESS: I appreciate it, too; makes  
11 it a lot easier for us, really.

12 MR. COLE: We will make arrangements, once  
13 we have a deposition transcript, for you to review  
14 that generally in the same manner as other witnesses  
15 have been afforded that opportunity.

16 MR. CEARLEY: Thank you, Lance.

17 MR. COLE: Thank you.

18 (Whereupon, at 12:55 p.m., the deposition  
19 was concluded.)

20

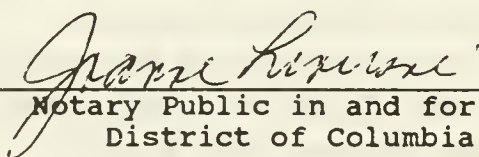
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NANCY HERNREICH

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires

JULY 31, 2000

DEPONENT: Nancy Hernreich

RE: Whitewater 2-6-96 CR63511.0

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
8	18	Curry	Currie	Spelling
17	17	Linda	Lynda	Spelling
18	15	Fletcher	Pledger	Spelling
18	17	Fletcher	Pledger	Spelling
36	14	Drimmett	Grimmett	Spelling
36	16	Drimmett	Grimmett	Spelling
72	10	Curry	Currie	Spelling
75	6	Curry	Currie	Spelling





**DEPOSITION OF ALSTON JENNINGS  
IN RE: S. RES. 120**

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**TUESDAY, FEBRUARY 6, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of ALSTON JENNINGS, called for examination pursuant to notice of deposition, at 1:25 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.  
Majority Associate Special Counsel  
LANCE COLE, Esq.  
Minority Deputy Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

ALSTON JENNINGS, JR., Esq.  
200 West Capitol Avenue  
Little Rock, Arkansas 72201  
On behalf of the Deponent.

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## 1 P R O C E E D I N G S

2 MR. DINH: Mr. Jennings, as you know, my  
3 name is Viet Dinh. I am with the Majority side of  
4 the Special Committee. With me is Lance Cole, who is  
5 with the Minority side. This deposition is conducted  
6 pursuant to Senate Resolution 120. The resolution  
7 establishes the Special Committee which is  
8 administered by the Senate Banking Committee, and the  
9 Special Committee is authorized to conduct an  
10 investigation into the Whitewater Development  
11 Corporation, Madison Guaranty Savings & Loan  
12 Association and some related matters.

13 Section 1(d)(1) of Resolution 120  
14 authorizes investigation and public hearings into  
15 "whether improper conduct occurred regarding the way  
16 in which White House officials handled documents in  
17 the office of White House Deputy Counsel Vincent  
18 Foster following his death."

19 Section 1(b)(3)(A) of Resolution 120  
20 authorizes investigation and public hearings into the  
21 operations, solvency and regulation of Madison  
22 Guaranty Savings & Loan Association and any

1 subsidiary, affiliate or other entity owned or  
2 controlled by Madison Guaranty Savings & Loan  
3 Association.

4 Section 1(b)(3)(C) of Resolution 120  
5 authorizes the investigation and public hearings into  
6 "the policies and practices of the RTC and the  
7 federal banking agencies regarding the legal  
8 representation of such agencies with respect to  
9 Madison Guaranty Savings & Loan Association."

10 I anticipate that these subjects will be  
11 the focus of today's deposition. The testimony you  
12 are about to give is to be given under oath, and the  
13 stenographer will prepare a record of questions and  
14 answers. This deposition is taken in advance of  
15 public hearings which are being conducted right now  
16 by the Special Committee.

17 We have not decided who among the witnesses  
18 deposed will be called at the public hearings, but if  
19 you are among the witnesses called to testify at the  
20 public hearings, we will notify you in advance.

21 The transcripts of this deposition will be  
22 treated as committee confidential until the

1 commencement of those hearings. At that time, the  
2 transcript may be made public in whole or in part.  
3 Prior to the hearings, you will receive a letter from  
4 the committee telling you that you may review the  
5 transcript of your deposition and make note of any  
6 corrections of transcription on an errata sheet.  
7 That, again, is for the limited purpose of review and  
8 correction and the information should not be  
9 disclosed for any other reason.

10 MR. COLE: If I could just interrupt you  
11 for a moment, Mr. Dinh. I wanted to clarify for  
12 Mr. Jennings, Jr. and Senior that for witnesses who  
13 have traveled up here to testify from Arkansas or  
14 other places and are not in Washington, we made  
15 arrangements to send the deposition transcripts to  
16 the witness prior to the hearing. So obviously you  
17 don't have to come up here solely for the purpose of  
18 reviewing the transcript.

19 MR. DINH: Thank you very much, Mr. Cole.  
20 If you are called to testify at the public hearings,  
21 we will provide you with your own copy of the  
22 deposition transcript approximately four days in

---

1 advance of your testimony, again, for the limited  
2 purpose of preparing yourself for the testimony at  
3 the hearings. Pursuant to Resolution 120, you may be  
4 represented by counsel. As I see, you have counsel  
5 present here.

6 Can counsel make an appearance for the  
7 record, please.

8 MR. JENNINGS, JR: I'm Alston  
9 Jennings, Jr.

10 MR. DINH: Pursuant to the procedures set  
11 forth in Resolution 120, objections as to the form of  
12 the questions will be noted for the record. There  
13 are two grounds upon which counsel may object and  
14 give an instruction not to answer, and those are  
15 privilege and scope, the traditional privilege  
16 objection and also an objection that the questions  
17 and subject matters fall outside the scope of Senate  
18 Resolution 120.

19 The committee chairman, again, pursuant to  
20 the procedures set forth in Resolution 120 will  
21 ultimately rule on the objections where the witness  
22 refuses to answer a question.



1 Please swear in the witness.

2 Whereupon,

3 ALSTON JENNINGS

4 was called as a witness and, having first been duly  
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. DINH:

8 Q Can you state your full name for the  
9 record, please.

10 A Charles Alston Jennings, but I have never  
11 used the first name except in the service and for  
12 income tax filing.

13 Q And just for purpose of completeness, you  
14 are Senior?

15 A That is correct.

16 Q And your counsel is Alston Jennings, Jr.?

17 A Correct.

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3 BY MR. DINH:

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8 Q Let me ask you, from the notice of your  
9 deposition here today, have you had any conversations  
10 outside of your immediate family or your counsel,  
11 which in this case happens to be one and the same,  
12 have you had any discussions outside of those people  
13 about the substance or subject matter that you have  
14 been asked to testify about?

15 A I have had some conversation with partners  
16 in my law firm to the effect that I have been  
17 subpoenaed and that I really didn't know what the  
18 reason was.

19 Q Other than the partners at your law firm,  
20 have you had any other discussions about the  
21 substance of what you are about to testify?

22 A No, sir.

1 Q Without telling me what you were asked or  
2 what you said, can you tell me whether you have been  
3 interviewed or questioned under oath by any other  
4 investigative agency about the subject matter you  
5 have been asked to testify about?

6 A I have been questioned by the law firm, I  
7 guess they have a Washington office, but in  
8 San Francisco.

9 Q The Pillsbury, Madison & Sutro law firm?

10 A Yes.

11 Q They were conducting that interview  
12 pursuant to their work with the RTC?

13 A That was my understanding. I have also  
14 been questioned by somebody with the RTC, and I  
15 believe I was questioned by maybe the FBI. I have  
16 been questioned three times.

17 Q When were you questioned by the RTC? Was  
18 that the first interview that you had with the  
19 investigators?

20 A I couldn't tell you even a close date, but  
21 I believe it was the first one.

22 Q Was that within five years of today?

---

10

1 A It could have been -- let's see. We were  
2 litigating and it would have been probably three to  
3 four years ago would be my best guess.

4 Q And then the next interview, was that with  
5 the law firm of Pillsbury, Madison & Sutro or was  
6 that with the FBI agents?

7 A I have been interviewed by both.

8 Q Which one came next?

9 A I believe that this Pillsbury was third,  
10 was my best recollection.

11 Q And the FBI agents, did they advise you  
12 whether they were questioning for the Special  
13 Counsel, Mr. Robert Fiske, or was it the Independent  
14 Counsel, Mr. Kenneth Starr?

15 A It was bound to have been when Mr. Fiske  
16 was Special Counsel.

17 Q Let me get right to the point. I'm going  
18 to ask you some questions regarding the case of Ward  
19 v. Madison Guaranty Savings and Loan Association.  
20 Were you involved in that case?

21 A Yes, sir.

22 Q In what capacity?

1 A I represented Mr. Ward in his lawsuit  
2 against Madison for commissions.

3 Q How did you come about to retain Mr. Ward  
4 as a client?

5 A I understand, and I don't know this from my  
6 personal knowledge, but I understand that his  
7 son-in-law, Mr. Hubbell, said that he could not  
8 represent him, and I believe, although I'm not sure  
9 of this, that Mr. Hubbell recommended me to  
10 Mr. Ward.

11 Q Did you have any conversation with  
12 Mr. Hubbell regarding this apparent or supposed  
13 conflict of interest?

14 A No. I never had any conversation with  
15 Mr. Hubbell with regard to conflict of interest. I  
16 won't say I never talked to Mr. Hubbell during the  
17 course of the lawsuit. I may well have, but I don't  
18 recall anything specific.

19 Q You said that you had an understanding but  
20 no direct knowledge of this fact. From where did you  
21 gain that understanding?

22 A From Mr. Ward.

---

1 Q He told you -- so, Mr. Ward contacted you  
2 before the start of this trial to ask you to  
3 represent him?

4 A Yes.

5 Q And at that time, did he give you the  
6 understanding that Mr. Hubbell had recommended you?

7 A Yes.

8 Q And it was at that time that he also  
9 advised you that Mr. Hubbell had a potential conflict  
10 of interest and that's why he could not represent him  
11 personally?

12 A That's correct.

13 Q Approximately when was this, what year?

14 A The lawsuit was tried in August of 1988.

15 Q Approximately how much earlier prior to  
16 August 1988 did Mr. Ward approach you?

17 A I would have to make a guess, but it was  
18 probably a year before we got to trial.

19 Q So approximately August 1987?

20 A About then.

21 Q I understand that at that time you had  
22 retired from your law firm and was of counsel to the

1 firm?

2 A That's correct.

3 Q So, as of counsel, you had -- do I  
4 understand that -- and maybe you can help me  
5 understand -- you had more leeway as to the choice of  
6 cases that you accept or reject?

7 A Oh, I didn't consider that it was any  
8 different situation with regard to my choosing to  
9 accept a case.

10 Q What criteria do you use in order to choose  
11 to accept or reject a case?

12 A Obviously you discuss what the client's  
13 situation is and you decide whether or not you want  
14 to participate.

15 Q Did you know Mr. Ward prior to his  
16 approaching you in 1987?

17 A Yes.

18 Q In what capacity did you know him?

19 A Just as a local businessman.

20 Q I take it he was fairly well-known?

21 A Yes.

22 Q And did you know Mr. Hubbell prior to that?

---

1 A Oh, yes.

2 Q In what capacity?

3 A As a fellow lawyer, and he lived on the  
4 same street that I did.

5 Q So, both in a professional and a social  
6 setting?

7 A Yes, more professional than social. Web  
8 was considerably younger than I.

9 Q But your initial conversation with Mr. Ward  
10 was when you decided to accept his case against  
11 Madison Guaranty Savings & Loan Association?

12 A Yes.

13 Q Have you or a member of your firm  
14 represented Madison or any related entity?

15 A No.

16 Q I take it that you conducted a normal  
17 conflicts check before you accepted Mr. Ward as a  
18 client?

19 A Did what?

20 Q You did a normal conflicts check with all  
21 the members of your firm?

22 A Yes, I'm sure we did. We always do



1 conflicts checks.

2 Q Aside from the merits of the case, and by  
3 saying aside from, I want to leave it aside, not to  
4 make any connotation regarding that. Aside from the  
5 merits of the case, did you have any reservations  
6 regarding taking on the case that Mr. Ward had  
7 against Madison Guaranty Savings & Loan Association?

8 A No, sir.

9 Q Do you still represent Mr. Ward at this  
10 time?

11 A No.

12 Q When did your representation of him cease?

13 A When the RTC became involved in the case  
14 that was filed and removed to federal court, the RTC  
15 asked that I disqualify for further representation of  
16 Mr. Ward.

17 Q What was the basis of that request from the  
18 RTC?

19 A Our firm represented the FDIC and probably  
20 FSLIC, and I guess RTC after it came into being.

21 Q Because the RTC was a successor to the  
22 FDIC?

1 A Yes.

2 Q And was this representation of the FDIC and  
3 FSLIC and the RTC independent of Madison Guaranty?

4 A Oh, absolutely, as far as I'm aware. I did  
5 not personally have any connection to that  
6 representation.

7 Q So, at the objection of the RTC, you  
8 withdrew from the representation?

9 A That's correct.

10 Q And you said this was approximately when  
11 the RTC became involved and removed the case to  
12 federal court?

13 A Yes. Let's see. The case was tried in  
14 '88. It was appealed. So this would have been  
15 sometime in '90, I guess, when the RTC came into  
16 being, my recollection, or '89. No, it would have  
17 been '89.

18 Q Was this suggestion by the RTC made in a  
19 formal filing with the federal district court or was  
20 this a request to you?

21 A I don't believe so. I think they talked to  
22 our managing partner.

1 Q And then based on that communication, you  
2 made a decision to disqualify yourself?

3 A That's right.

4 Q And since your removal from the case in  
5 approximately -- on or about 1990, did you have any  
6 other dealings in the case or with Mr. Ward?

7 A I had no dealings with him as his  
8 attorney. I had -- I see Mr. Ward frequently.

9 Q As a social acquaintance?

10 A Yes.

11 Q During these visits after 1990, did you  
12 have any discussions with him regarding the case just  
13 as friends?

14 A Yes.

15 Q Incidentally, who was your successor as  
16 Mr. Ward's counsel?

17 A Tom Ray.

18 Q Can you spell that for me?

19 A R-a-y.

20 Q And do you know what firm he is with?

21 A Schults, Ray & Burris?

22 MR. JENNINGS, JR: Kurus, K-u-r-u-s, I

1 believe.

2 THE WITNESS: Yes.

3 BY MR. DINH:

4 Q You mentioned earlier that a dispute  
5 between Mr. Ward and Madison Guaranty was in the  
6 nature of disputed sales commissions?

7 A That is correct.

8 Q Can you describe more generally what the  
9 nature of the dispute is?

10 A Well, it involved the sale of the property  
11 that was purchased from the IDC, Industrial  
12 Development Commission, and Mr. Ward was to receive a  
13 commission on the sales of portions of that property  
14 as they were sold.

15 Q And you said that the property that was  
16 purchased from the IDC, who purchased it?

17 A My understanding and recollection is that  
18 Mr. Ward purchased the property north of 65th Street,  
19 I believe it is. The property was divided by a main  
20 thoroughfare, and he purchased the property north of  
21 that thoroughfare, and I guess Madison Financial  
22 purchased the property south.

1 Q Would that have been 145th Street?

2 A That's right, yes. Excuse me. It was  
3 145th Street.

4 Q I'm just going to show you a little bit of  
5 a map.

6 MR. COLE: Can we identify that for the  
7 record. There is no Bates number on it, I take it,  
8 but perhaps you could describe it for the record.

9 MR. DINH: It is essentially a plot map of  
10 the property in question. The property is divided  
11 east to west by 145th Street. This map and the color  
12 representations on that are made by the members of  
13 the Special Committee staff. The plot map itself, I  
14 believe, is part of the public record and related to  
15 the Castle Grande or IDC transaction.

16 BY MR. DINH:

17 Q Does that roughly approximate the property  
18 that was the basis of the dispute between Ward and  
19 Madison?

20 A I never had any knowledge of any particular  
21 property, because we based our lawsuit on the figures  
22 with regard to sales that were furnished to us by

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20

1 Madison. So, I never investigated the specific  
2 property. I never have been down there.

3 Q Let me understand this. The area that was  
4 in dispute, not in dispute, but the affected area  
5 with respect to this lawsuit was land that Mr. Ward  
6 had purchased from IDC?

7 A And land that, as I understand it, that  
8 Madison Financial had purchased.

9 Q South of 145th Street?

10 A As I understood it, it encompassed all of  
11 the land that was purchased from the IDC.

12 Q The dispute concerned the commissions from  
13 the sale of that land, the subsequent resale of that  
14 land?

15 A That's correct.

16 Q And that is, just to spell everything out,  
17 Mr. Ward had an understanding with Madison that he  
18 would get a commission for whatever sale he would  
19 make or resale, as it were, he would make of the  
20 affected land?

21 A He would make or that they would make. He  
22 had an agreement with Mr. McDougal.

1 Q Mr. McDougal at that time was?

2 A He was the head man at Madison. I guess he  
3 was president, chairman of the board, whatever.

4 Q And is it correct in my understanding that  
5 at least on one understanding of the agreement  
6 between Mr. Ward and Mr. McDougal is that Mr. Ward  
7 would get 10 percent commission of the purchase or  
8 sales price of any property that he personally  
9 handled the sale for and 4 percent of whatever  
10 property that somebody else handled the sales for?

11 A That is not my recollection. My  
12 recollection is that he was to get 10 percent of  
13 sales of commercial property and 4 percent of sales  
14 of residential property.

15 MR. COLE: If I could ask just one  
16 clarifying question, perhaps to refresh your  
17 recollection further, Mr. Jennings. Do you have a  
18 recollection that the understanding was that Mr. Ward  
19 would receive an 8 percent commission if he sold the  
20 property himself and a 4 percent commission if  
21 Madison sold the property, the commercial property?

22 THE WITNESS: I have a hazy recollection of

---

1 something like that.

2 MR. COLE: I'm asking that based on my  
3 review of the record in Ward v. Madison.

4 THE WITNESS: I do have some hazy  
5 recollection that there was some difference involved  
6 in who sold the property, but I do not really  
7 remember now. I reviewed it from the transcript, but  
8 I do not really remember now the exact details.

9 BY MR. DINH:

10 Q It seems pretty straightforward. What was  
11 the dispute about?

12 A I think, as I understood it, at the  
13 beginning of the lawsuit, the dispute was about the  
14 amount of commissions that were owed, and it was my  
15 understanding that it was agreed between the parties  
16 that at least \$300,000 was owed to Mr. Ward.  
17 Mr. Ward, according to what he told me, kept asking  
18 them to pay him, and they told him they didn't have  
19 the money, but they gave him a note for \$300,000.

20 So, the lawsuit basically was over whether  
21 or not there was more than \$300,000 owed. That was  
22 the basic issue of the lawsuit.



1 Q So, Madison acknowledged they owed him  
2 \$300,000?

3 A Well, Mr. Ward says they did. They did not  
4 come out and acknowledge that in the lawsuit. In the  
5 lawsuit, they said they didn't owe him anything, but  
6 he had a note from them for \$300,000. He was suing  
7 on that note as part of his lawsuit.

8 Q And do you recall the initial agreement  
9 between Mr. Ward and Mr. McDougal? Do you remember  
10 where and when the terms of that agreement were set  
11 out?

12 A See, I didn't represent Mr. Ward at that  
13 time. I have seen a copy of an agreement and been  
14 told what happened, but I had nothing to do with  
15 that.

16 Q I want to show you now what is labeled as  
17 exhibit, SEN 30383 and 30384 and ask you to study  
18 that. This is a letter from Mr. Ward to Mr. McDougal  
19 dated September 24, 1985.

20 A I have seen this before.

21 Q Can you describe under what circumstances  
22 you have seen this before?

1 A Sure. I saw it in connection with the  
2 lawsuit.

3 Q What does this represent?

4 A It represents an agreement, as I understand  
5 it, between Mr. McDougal and Mr. Ward with regard to  
6 the IDC property and Mr. Ward's involvement and what  
7 his compensation would be.

8 Q Let me show you now another document, also  
9 a letter from Mr. Ward to Mr. McDougal dated  
10 September 24, 1985 and identified as Bates number SEN  
11 33094, and also there is a separate Bates number SW  
12 1-005 and it continues for two pages, so SW 1-007,  
13 and also continues to SEN 33096. Please study that.

14 (Witness examined the document.)

15 A I assume that if this was introduced in  
16 evidence at the trial, I have seen it.

17 Q And on the left-hand side of the page, it  
18 says "Plaintiff's Exhibit Number 4."

19 A I assume that is from our lawsuit.

20 Q So, you have seen this. Can you describe  
21 what this is?

22 A Again, it relates to his agreement with

1 Mr. McDougal concerning the property commonly  
2 referred to as all the land owned by the Industrial  
3 Development Company of Little Rock and certain  
4 improvements.

5 Q So, they serve the same purpose?

6 A I understand that is correct, yes.

7 Q The terms are somewhat different because  
8 the substance of the two letters are somewhat  
9 different, but they are dated the same?

10 A Yes.

11 Q Did you have knowledge of both these  
12 letters during the trial or during your  
13 representation of Mr. Ward?

14 A Yes, I'm sure I did.

15 Q Can you explain to me why there was a need  
16 for two separate -- two different letters?

17 A Well, I can explain what Mr. Ward has  
18 testified to in regard to it.

19 Q If you could do that, yes.

20 A That one letter omitted a portion of the  
21 agreement and that he had a second letter, so it  
22 would include what was left out in the first one.

1 Q Do you know whether the second letter, that  
2 is, the letter identified as SEN 33094, was indeed  
3 executed on September 24, 1985? Or was that made at  
4 a later date?

5 A My understanding is that it was not  
6 executed on the date -- if this is the letter that I  
7 am -- there was a letter that was marked void which  
8 was introduced into evidence, as I recall. If this  
9 was the second or third letter, it was not executed  
10 on the date it was dated. That's my understanding.

11 Q Do you know when it was executed,  
12 approximately?

13 A My understanding was that it was a day or  
14 so later.

15 Q Basically, the difference between the two  
16 letters was that the subsequent letter, the letter  
17 that is identified as SEN 33094, excluded from the  
18 option granted to Madison Guaranty to purchase the  
19 land back from Mr. Ward a parcel that is described in  
20 specific detail in the letter, but what is commonly  
21 known as Holman Acres?

22 A That is correct.

1 Q Can you explain what the import of this  
2 exclusion from the option means?

3 A That is just what the parties agreed to. I  
4 don't know why or how it came about.

5 Q But that means that Mr. Ward has title to  
6 that piece of property and unaffected by the option  
7 granted to Madison Guaranty associated with the  
8 transaction?

9 A That is my understanding, yes.

10 Q So, Madison Guaranty or Madison Financial,  
11 whichever of the Madison entity was related -- so,  
12 Madison retained an option to purchase back from  
13 Mr. Ward all of the property that he has purchased  
14 from IDC, except, if the second letter reflects  
15 adequately the understanding of the parties, except  
16 the parcel identified as Holman Acres?

17 A That is my understanding.

18 Q Do you know who drafted the second letter?

19 A No, sir.

20 Q But Mr. Ward told you it was drafted within  
21 a day or two of the first letter?

22 A Yes, sir. This letter is signed by

1 Mr. McDougal.

2 Q Right. Actually, it was countersigned by  
3 Mr. McDougal. It was acknowledged and accepted by  
4 Mr. McDougal but signed by Mr. Ward.

5 A Mr. McDougal's signature also appears.

6 Q It was a letter from Mr. Ward to  
7 Mr. McDougal.

8 A That doesn't mean to imply that  
9 Mr. McDougal wrote the letter, but he did sign it and  
10 accept it.

11 Q Did you use that document, including  
12 Mr. McDougal's signature, as signed and accepted, as  
13 evidence of the parties' intent?

14 A Yes.

15 Q Just so I can get a further understanding  
16 of the case, was there a subsequent option that was  
17 agreed to by the parties with respect to the Holman  
18 Acres property?

19 A Yes.

20 Q Let me ask you to -- let me refer you to  
21 exhibit Bates number SW 1-070 through SW 1-074 and  
22 ask you to study that.

1 (Witness examined the document.)

2 A This is an option to purchase executed by  
3 Mr. Ward and Madison Financial Corporation by I  
4 believe that signature is John Latham.

5 Q Mr. Latham is also an officer of Madison?

6 A He was the Madison representative after  
7 Mr. McDougal left. Just exactly what position he  
8 occupied before that I'm not sure. But I'm sure he  
9 was an officer of Madison, yes, either Financial or  
10 Guaranty. I don't know which.

11 Q This option, is this the option that you  
12 referred to in your early answer respecting the  
13 option for Madison to purchase Holman Acres from  
14 Mr. Ward?

15 A Yes, sir.

16 Q And when was this executed, do you know?  
17 You can read the first line of this.

18 A The first day of May 1986.

19 Q This was executed May 1st of 1986?

20 A Yes, sir.

21 Q Incidentally, do you know why the second  
22 option dealt with only 6.67 acres whereas the

---

30

1 original letter agreement concerned 22-1/2 acres of  
2 Holman Acres?

3 A I was not aware that there was a second  
4 option.

5 Q I'm sorry. This is the option that we are  
6 talking about that was executed May 1st, 1986. The  
7 original letter agreement dated September 24, 1985,  
8 to which we were referring earlier, Plaintiff's  
9 Exhibit 4 in your trial, the portion that was  
10 reserved from the option, the umbrella option for  
11 Madison concerned a portion of land that encompassed  
12 22-1/2 acres?

13 MR. COLE: Maybe slow down a little bit,  
14 because I'm not sure which portion is Holman Acres.  
15 Is Holman Acres the entire 22 acres or is it the  
16 6-acre tract, if Mr. Jennings can shed any light on  
17 that issue?

18 THE WITNESS: I will tell you the truth.  
19 This is the first time I have noticed there was any  
20 difference in the agreement as to what he reserved  
21 and the actual optioned property.

22 BY MR. DINH:



1 Q That wasn't an issue in the case?

2 A No. If there was any question, the option  
3 had been agreed to, and of course it was never  
4 exercised.

5 MR. COLE: Was it your understanding in the  
6 trial, though, that the property referred to in the  
7 May 1986 option that Mr. Dinh just showed you was the  
8 same property that was referenced in the September  
9 24th letter?

10 THE WITNESS: That's what I thought during  
11 the whole trial. I never noticed any difference.

12 BY MR. DINH:

13 Q But the difference was not focused upon  
14 during the trial?

15 A No, because it was never exercised. I  
16 didn't pay any attention to it. The only reason it  
17 came into the trial was because they supposedly  
18 agreed to pay a certain amount of money, whether it  
19 was 10,000 or 1000 or whatever for the option, and  
20 they never paid it. So we sought to recover that  
21 amount, whatever it was, in the trial.

22 Q Right. I think this option says the

1 consideration for the option is \$1000. So that was  
2 part of your claim against Madison Financial?

3 A That's right.

4 Q Even though Mr. Ward and Mr. Latham had  
5 executed this option, the consideration for which has  
6 not been paid?

7 A That's my recollection, yes.

8 Q And the option was never exercised?

9 A That's correct. Now, something I would  
10 like to know is when Mr. Ward executed a deed, as I  
11 understand and as I recall it, he executed the deed  
12 to Holman Acres, which would have included the whole  
13 22-1/2 acres less some part that one of the banks  
14 bought. That's my recollection.

15 Q This is the quit claim deed that you were  
16 talking about?

17 A Yes.

18 Q He executed the quit claim deed in favor of  
19 Madison?

20 A Yes. Whether it was Madison Financial or  
21 Madison Guaranty, I don't know, but it was Madison.

22 Q One of the Madison entities.

1 MR. DINH: Off the record.

2 (Discussion off the record.)

3 BY MR. DINH:

4 Q As I understand it, between the original  
5 September 1985 agreement and this May 1, 1986  
6 agreement, Madison also granted to Mr. Ward a note or  
7 executed a note for Mr. Ward; is that right?

8 A My recollection is now, and you can find it  
9 from the transcript, but my recollection is that the  
10 note from Madison to Ward was at some date before the  
11 May date. That's my recollection of it.

12 Q This is the promissory note?

13 A Yes.

14 Q This is the \$300,000 note?

15 A That's the \$300,000 note. I could be wrong  
16 about that. But I thought it was an April note.

17 Q Now, did Mr. Ward in the interim also take  
18 out a loan from Madison?

19 A Yes.

20 Q Do you remember the approximate amount of  
21 that?

22 A He borrowed money from Madison on more than

---

1 one occasion. I think probably the one you were  
2 asking about was a \$400,000 loan. That's the one  
3 that was secured by the mortgage on Holman Acres.

4 Q So, he took out a loan for \$400,000 secured  
5 by Holman Acres, and do I understand it correctly  
6 that he paid back to Madison \$100,000 of that?

7 A That is correct.

8 Q Within a week of the --

9 A 12 days, I believe, my recollection.

10 Q The value of the outstanding amount for the  
11 mortgage on Holman Acres was approximately \$300,000?

12 A That's correct, plus interest.

13 Q Plus interest. And from your involvement  
14 with the case, did you understand this particular  
15 loan to have any connection with the original  
16 agreement or with the option that was subsequently  
17 executed?

18 A You mean with regard to commissions?

19 Q Yes.

20 A As far as I understood, it had nothing  
21 whatsoever to do with commissions.

22 MR. COLE: The question went to the

1 subsequent May 1986 option agreement, whether that  
2 had to do with commissions?

3 MR. DINH: Yes. Read back the question.

4 (The reporter read the record as requested.)

5 BY MR. DINH:

6 Q So the \$300,000 loan was independent of the  
7 commissions?

8 A The \$400,000 loan was independent of the  
9 commissions, according to my understanding of the  
10 entire transaction.

11 Q Okay. And so what were you suing on on the  
12 \$300,000 note?

13 A We had an agreement before the jury went  
14 out that if the jury returned a verdict for as much  
15 as \$300,000, that it would be considered a judgment  
16 on the note. And they returned a verdict in excess  
17 of \$300,000, so the \$300,000 note and the interest on  
18 that was considered to be a part of that judgment.  
19 Now, this is a \$300,000 note from Madison Financial  
20 to Mr. Ward.

21 Q Right, the promissory note, not the  
22 \$400,000 loan.

1 A Right. This is one from Madison to  
2 Mr. Ward.

3 Q As you understand the case or at least  
4 Mr. Ward's position, it was that \$300,000 promissory  
5 note which was the amount owed to him for the  
6 commissions associated with the sale of the land?

7 A That he was owed at least that much money.

8 Q At least that much money.

9 And his position was that the \$400,000 loan  
10 was independent -- secured by Holman Acres was  
11 independent of any commissions he was owed?

12 A Completely.

13 Q Did that \$400,000 loan under Mr. Ward's  
14 interpretation of the contracts and the agreements,  
15 did that \$400,000 loan have any relation to the  
16 subsequent May 1, 1986 option?

17 A Not so far as I'm aware.

18 Q Do you have an understanding from Mr. Ward  
19 as to what was the purpose of the May 1, 1986 option?

20 A My understanding was that Mr. McDougal was  
21 interested in buying the property and that rather  
22 than buying it outright, he agreed to take an option



1 on it. So, he was free to buy it or not buy it.

2 Q What was the purchase price of that option,  
3 do you recall?

4 A In the option?

5 Q In the option, the May 1, 1986 option.

6 A My recollection was it was \$400,000.

7 Q So, just to recap the position of Mr. Ward  
8 during this litigation, hopefully succinctly, was  
9 that he was owed some commissions, at least \$300,000  
10 worth. The evidence of that amount owed was the  
11 promissory note that Madison executed in his favor  
12 for \$300,000?

13 A Well, it was in lieu of \$300,000 in cash.  
14 They told him they didn't have the money to pay him.

15 Q And the transaction relating to the loan,  
16 the \$400,000 loan secured by Holman Acres was  
17 independent of the commissions?

18 A My understanding it was totally independent  
19 of the commissions.

20 Q Likewise, the May 1, 1986 option?

21 A Totally independent, as far as I knew.

22 Q Now, this wasn't the position of Madison

1 Financial, was it?

2 A I believe that Mr. Latham, if my  
3 recollection is correct, agreed with Mr. Ward about  
4 the \$300,000 note from Financial to Mr. Ward being in  
5 lieu of paying that amount of money in cash. That's  
6 my recollection.

7 Q Did Mr. Latham have a further position with  
8 respect to the linkage between the \$400,000 loan  
9 secured by Holman Acres and the subsequent May 1,  
10 1986 option to purchase Holman Acres?

11 A I'm not aware of any linkage whatsoever by  
12 anybody.

13 Q So, what was Mr. Latham's litigation  
14 position in the case?

15 A I never did figure it out. Evidently it  
16 was not very strong.

17 Q We will get to that.

18 With respect to that, I would like to refer  
19 you to the transcript of the trial, and specifically  
20 to Mr. Latham's testimony before the jury there.  
21 This is the transcript of a trial in Ward v. Madison,  
22 Number 87-7580 in the circuit court of Pulaski



1 County.

2 At page 99 of that transcript, Mr. Latham  
3 was asked by Ms. Bartley, whom I believe to be his  
4 counsel at the time, your opposing counsel in the  
5 litigation?

6 A That's correct.

7 Q Ms. Bartley asked "can you tell the jury  
8 what you recall of the circumstances surrounding  
9 Mr. Ward borrowing \$400,000 from Madison Guaranty?

10 "Answer: At that time, Mr. Ward was  
11 needing about \$400,000 in cash for some personal  
12 reasons. The service corporation was not in a  
13 position at that time, if I remember correctly, to  
14 pay him the \$300,000 or so that was owed in  
15 commissions. The savings and loan loaned Seth the  
16 money secured by a mortgage on tracts 27 and 28 of  
17 Holman Acres."

18 Does that suggest to you that Mr. Latham  
19 understood there to be a linkage between the \$400,000  
20 loan and the commissions that were owed to Mr. Ward?

21 A No. I read it to be that Mr. Ward wasn't  
22 getting any money in commissions and he needed some

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1 money, so he borrowed some money.

2 Q So he borrowed some money secured by Holman  
3 Acres?

4 A Yes.

5 Q Let me proceed a little bit further,  
6 actually two questions down from that original  
7 exchange that I referred you to. This is again at  
8 page 101 of the same transcript.

9 "Question: I want you to look at now what  
10 has been introduced as Defendant's Exhibit 3, an  
11 option to purchase tracts 27 and 28 of Holman Acres.  
12 Can you tell the jury about the circumstances  
13 surrounding the financial corporation taking an  
14 option out on this property?

15 "Answer: Yes. I know this is confusing,  
16 but the loan was done really at that time in lieu of  
17 the option. The option more concretely or more  
18 accurately reflects the nature of the transaction,  
19 that being that the service corporation owed Seth  
20 \$300,000 in commissions. In the initial purchase of  
21 all that property, Seth retained tracts 27 and 28 of  
22 Holman Acres as his commission, which was later to be

1 bought by the service corporation. The option allows  
2 the service corporation to buy the property from  
3 Seth, thus Seth receives a \$300,000 and the service  
4 corporation would have the property. The note was  
5 done very quickly to make sure that that debt was  
6 evidence should something happen to anybody to  
7 protect Seth. The note, however, would have left, if  
8 that was the way it was finally structured, would  
9 have left Seth with the \$300,000 plus the property,  
10 which was not the intent of the transaction."

11 A Well, I would have to agree with Mr. Latham  
12 that it is pretty confused. But I would say that  
13 having somebody agree that at their option they could  
14 pay you \$400,000, which they didn't have to pay,  
15 would not represent any payment of any indebtedness  
16 that they might have. It wouldn't to me. I don't  
17 see how it has any relationship to the commissions  
18 since the Madison has got the option that they don't  
19 have to exercise and didn't exercise. So, that's no  
20 money in Mr. Ward's pocket, except \$1000, which they  
21 didn't pay either.

22 Q But Mr. Latham's position was that the

1 option was entered into, at least from Madison's  
2 perspective, in order to effect the intent of the  
3 parties with respect to the commissions; correct?

4 A If that was his impression, it was totally  
5 idiotic.

6 Q Certainly that quote that it was idiotic  
7 was certainly Mr. Ward's position during the trial.

8 A I never picked up Mr. Latham thinking that  
9 this option had anything to do with paying Mr. Ward  
10 for what was owed, even his commissions, because he  
11 didn't receive any money because of this option.

12 Q But Mr. Latham's position is that the  
13 original intent was not to give Mr. Ward both the  
14 land in Holman Acres and his commissions; it was  
15 either/or. It was the land or the commissions and  
16 that's why the structure was -- why the note was  
17 restructured as an option, so that he would only get  
18 either the commissions or retain the land?

19 A I never at any time thought that the  
20 evidence with regard to the transactions was subject  
21 to any such interpretation. Now, what Mr. Latham  
22 thought I don't know. Frankly, I ignored that

1 testimony; it seemed so off the wall to me.

2 Q It may appear to be off the wall, but  
3 indeed that was Mr. Latham's position?

4 A That's apparently what he was trying to  
5 propose.

6 Q His defense against the \$300,000 obligation  
7 to Mr. Ward was that he was either going to get the  
8 \$300,000 or the land, not both?

9 A I guess that's his position.

10 Q And by retaining the land and suing on the  
11 \$300,000 promissory note, he is basically getting a  
12 windfall beyond the intent of the parties to the  
13 original September 24th, 1985 agreement?

14 A He might be getting a windfall according to  
15 Mr. Latham's testimony as to what the intent was, but  
16 he did not get any windfall based upon the documents  
17 that were executed.

18 Q And as a matter of fact, the question as to  
19 the intent is, the intent of the original agreement  
20 was one of the primary issues litigated in the case;  
21 correct?

22 A No.

1 Q No?

2 A No.

3 Q What was the central issue in the case?  
4 What the meaning of the documents was?

5 A Yes. Have you looked at the instructions?

6 Q I did, and as a matter of fact, right after  
7 that exchange, that answer by Mr. Latham, you  
8 objected, and you said "if the court please, we  
9 object to that statement as being intent to vary the  
10 terms of the written agreement by oral testimony,"  
11 again, consistent with what you have testified a  
12 minute ago as to your theory of the case. The court  
13 denied that objection.

14 A That's right.

15 Q The court explained that "I will let you  
16 cross him."

17 The question from Mr. Jennings, "you mean  
18 later?"

19 "The court: After a while."

20 So, the court, in fact, permitted the  
21 parties to go beyond the statement of the terms of  
22 the written agreement and to permit Mr. Latham's



1 testimony as to the intent of the parties with  
2 respect to the original agreement; correct?

3 A That's what the record shows.

4 Q Given that, given that posture, do you  
5 agree that the May 1986 option was relevant to the  
6 intent of the parties with respect to what was agreed  
7 to in the original agreement between Mr. Ward and  
8 Mr. Latham or Mr. McDougal?

9 A No.

10 Q But if one adopts or if one gives credence  
11 to Mr. Latham's position, admittedly not your own  
12 position, not Mr. Ward's position in the litigation,  
13 the purpose for the option certainly is relevant;  
14 correct?

15 A I still don't see it, I'm sorry.

16 Q His position is that -- and I will ask you  
17 to bear with me in seeing his position, not your own  
18 during the litigation and not Mr. Ward's  
19 interpretation of the contract, but Mr. Latham's  
20 position. His position is that Mr. Ward is owed  
21 either the land or the commissions; that was the  
22 import of his earlier testimony which you said you

1 did not pay much credence to.

2 A That's apparently what he was claiming.

3 Q And the reason why the option was important  
4 to him was because it was in lieu of the promissory  
5 note, the \$300,000 promissory note, because the  
6 promissory note would give Mr. Ward both the land and  
7 the \$300,000, whereas the option would, if it was  
8 exercised and properly executed, would have given  
9 Mr. Ward only the land or the commission?

10 A I don't see that, I'm sorry. The note was  
11 a promissory note, a valid and binding obligation of  
12 Madison Financial. The option was strictly an  
13 option. I don't see how one cancels out the other,  
14 I'm sorry.

15 Q I understand. I understand that that's  
16 what the documents seem to indicate, and as a matter  
17 of fact, that's what the jury ultimately awarded  
18 Mr. Ward. But according to Mr. Latham, however it is  
19 to be understood, he intended the option to cancel  
20 out the note, to replace the note. That is, the  
21 option, as I read his testimony, again, at page 101,  
22 "the option allows the service corporation to buy



1 the property from Seth, thus Seth receives the  
2 \$300,000 and the service corporation would have the  
3 property."

4 A I'm sure you read it accurately, that  
5 that's what they said.

6 Q And he explained that "the option more  
7 concretely or more accurately reflects the nature of  
8 the transaction, that being that the service  
9 corporation owes Seth \$300,000 in commissions."

10 A That's again what he said.

11 Q So, that was crucial to his -- so, at least  
12 not to your understanding of the transaction and  
13 certainly not Mr. Ward's litigation position in this  
14 case against Madison Guaranty, but certainly with  
15 respect to Mr. Latham's position, the option was --  
16 the intent behind the option was critical to his  
17 defense with respect to your client?

18 A He testified that that's what he  
19 interpreted. He also testified that the entire  
20 transaction was a good deal for Madison.

21 Q Just as an aside, following up on your last  
22 answer there, have you come to any other

1 understanding of the transaction, that is, that it  
2 was not entirely a good deal for Madison?

3 A I have heard statements that it wasn't.

4 Q And how so?

5 A Newspaper accounts saying that they lost  
6 \$4-1/2 million on the deal.

7 MR. COLE: That would probably make it not  
8 a good deal.

9 THE WITNESS: It is hard to do, to buy a  
10 property for \$1750 and lose it for 4 million. You  
11 have to work at it. Seriously, I have heard that  
12 some of the sales they did not collect the money that  
13 was agreed to be the purchase price. Yes, I have  
14 heard that.

15 BY MR. DINH:

16 Q Getting back now to Mr. Latham's  
17 litigation -- litigating position and having  
18 established that the option and the intent behind the  
19 option, that is, Mr. Latham's intent of it as -- the  
20 intent of it was as a replacement of the promissory  
21 note so that Mr. Ward would not get both the \$300,000  
22 and the land but only get either/or, that is, either

1 get his commission or the land associated with Holman  
2 Acres.

3 The intent behind the option obviously is  
4 crucial to that defense. Did he offer any evidence  
5 as to the intent of the option other than his  
6 statement here that I have read to you?

7 A Did Mr. Latham offer?

8 Q Did Mr. Latham or his counsel?

9 A Not to my recollection, no.

10 Q Did you offer any evidence with respect to  
11 the intent behind the option to purchase the real  
12 estate that was executed in May 1986?

13 A No. I thought it spoke for itself.

14 Q You thought it spoke for itself. And what  
15 exactly is that? What exactly was your understanding  
16 of the option?

17 A That Mr. McDougal paid -- offered to pay  
18 \$1000 to have an option to buy the property for  
19 \$400,000. That was --

20 Q That is independent of the commissions?

21 A As far as I'm concerned, it is totally  
22 independent. It has nothing whatsoever to do with

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1 the commissions.

2 Q But you did not offer any evidence to  
3 refute Mr. Latham's statement that it was indeed  
4 independent? Mr. Latham seemed to think that it  
5 was --

6 A I didn't offer any evidence to refute what  
7 Mr. Latham said.

8 Q I'm sorry?

9 A I did not offer any evidence to refute what  
10 Mr. Latham said. I took the position that intent had  
11 nothing to do with it. I object to his testifying  
12 about intent. I certainly wasn't going to put on any  
13 evidence about intent after I made that objection.

14 MR. DINH: Off the record.

15 (Discussion off the record.)

16 BY MR. DINH:

17 Q Do you know who drafted the option?

18 A I have no idea.

19 Q At that time, you did not know. Do you now  
20 know who drafted the option?

21 A I do not know who drafted the option.

22 MR. COLE: By "the option," we are

1 referring to the May 1986 document?

2 MR. DINH: Yes. Bates numbered SW 1-070.

3 BY MR. DINH:

4 Q Again, I know we have skirted around the  
5 issue, but just to make clear, what was the reason  
6 for you not investigating the intent behind the  
7 option?

8 A The option was never exercised. As far as  
9 I was concerned, the option was really not a part of  
10 the litigation.

11 Q And you thought that offering any evidence  
12 of intent behind the option would be  
13 counterproductive in light of your position that the  
14 documents speak for themselves?

15 A Plus the fact that I didn't think there was  
16 any reason to offer any evidence of intent.

17 Q But Mr. Latham has, that is, his own  
18 testimony is that the intent of the option was to  
19 replace the promissory note.

20 A That's what Mr. Latham said. Of course,  
21 Mr. Latham had nothing to do with the original  
22 transaction between Mr. Ward and Mr. McDougal, so far

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1 as I know.

2 Q And that fact, that Mr. Latham did not have  
3 an understanding as to the original agreement  
4 contributed to your decision or your judgment that  
5 intent was irrelevant or at least offering evidence  
6 of intent behind the option was irrelevant to the  
7 case?

8 A I thought and still think that his evidence  
9 with regard to the intent of the option was totally  
10 irrelevant to anything that I was interested in in  
11 that lawsuit.

12 Q I know you didn't offer any evidence as to  
13 the intent of the option during the trial. Did you  
14 interview any witnesses regarding the intent of the  
15 option?

16 A I didn't investigate the option one way or  
17 another. It was totally irrelevant to me in the  
18 presentation of my lawsuit.

19 Q You did talk to Mr. Ward about it, however,  
20 did you?

21 A I knew of its existence because I was suing  
22 for the \$1000 that they said they were going to pay

1 him.

2 Q Did Mr. Ward offer to you his understanding  
3 as to the intent behind the May 1986 option?

4 A Told me Mr. McDougal wanted to buy the  
5 property.

6 Q And did he tell you that it was independent  
7 of the promissory note and of the commissions?

8 A I'm sure he didn't, because I never asked  
9 any such question, because obviously to me it was  
10 totally independent.

11 Q And even after Mr. Latham's testimony, you  
12 did not do any investigation with respect to the  
13 intent behind the option?

14 A None whatsoever.

15 Q You stated that Mr. Latham was not a party  
16 to the original agreement between Mr. McDougal and  
17 Mr. Ward.

18 A So far as I know, he was not.

19 Q Did Mr. McDougal testify at the trial?

20 A No.

21 Q And why is that?

22 A Well, Mr. McDougal had been removed from

1 his position with Madison.

2 Q Do you know approximately when that was?

3 A I tell you, approximately sometime in '86,  
4 summer of '86, I believe.

5 Q So in the six months between the execution  
6 of the September 1985 agreement and the -- no,  
7 actually sometime in 1986 he was removed?

8 A My understanding was in the summer of '86,  
9 July maybe, August.

10 MR. COLE: That's consistent with the  
11 record that has been developed in our hearings here,  
12 Mr. Jennings.

13 BY MR. DINH:

14 Q Did you make an effort to find  
15 Mr. McDougal?

16 A No.

17 Q Why was that?

18 A I didn't need him. I had written  
19 documents.

20 Q And I take it Madison Guaranty did not  
21 offer any evidence as to Mr. McDougal's testimony?

22 A No.



1 Q Was he in town at this time of year?

2 A I have no idea. Probably not in Little  
3 Rock, but I don't know that.

4 Q You didn't ask him where Mr. McDougal was?

5 A No.

6 Q Because under your theory of the case, you  
7 had the written documents. So if there is any  
8 evidence as to intent offered by Mr. McDougal, it  
9 would be by Madison rather than by yourself?

10 A That is correct. If they had given me a  
11 witness list saying that Mr. McDougal was going to  
12 testify, I would have taken his deposition. But they  
13 did not tell me that he was going to testify.

14 Q So, basically, the litigation position for  
15 both sides, if I can distill it down to contracts, is  
16 you want to rely on the parties' agreement as  
17 evidenced by the four corners of the documents that  
18 were executed?

19 A That's right.

20 Q They wanted to enter evidence of intent,  
21 what we call "parol evidence of intent" surrounding  
22 the parties' understanding of these written

1 documents?

2 A I would say they made sort of an abortive  
3 attempt, but it wasn't really a very serious  
4 attempt.

5 Q Of course, as you stated earlier,  
6 Mr. Latham had no direct knowledge as to what was the  
7 intent of Mr. McDougal at the time of the execution  
8 of the contract?

9 A So far as I know, he did not have any.

10 Q That was part of the reason why you did not  
11 offer any evidence to contradict his statements as to  
12 intent of the parties?

13 A I did not offer any evidence because I  
14 didn't think it was really an issue.

15 Q But Mr. McDougal certainly would have had  
16 direct knowledge as to what the intent of the parties  
17 were at the time?

18 A He might well have. I doubt if he would  
19 have been permitted to testify to it. But he  
20 certainly would have had knowledge of it.

21 Q You certainly would have objected to his  
22 testimony as to the intent?

1       A    It depends upon what it was. If he said  
2 the intent is what is set forth in the documents, I  
3 would have said that's fine. If he said the intent  
4 was something different than what is set forth in the  
5 documents, I would have said that is not admissible.

6       Q    As you objected when Mr. Latham attempted  
7 to introduce evidence of intent?

8       A    Correct.

9       Q    Did Mr. Ward testify?

10      A    Oh, yes.

11      Q    Did he testify as to the intent of the  
12 parties?

13      A    No. He didn't say we got all these  
14 documents but we really didn't intend any of that, if  
15 that's what you mean.

16      Q    He testified as to what his understanding  
17 of the documents mean?

18      A    That's what the documents said.

19      Q    That's consistent with what the documents  
20 said?

21      A    That's right.

22      Q    And ultimately you prevailed in this

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1 lawsuit; correct?

2       A    Yes, sir.

3       Q    What was the jury's verdict?

4       A    \$390,000, something like that. I don't  
5 remember the exact figure.

6       Q    So, in excess of the \$300,000 amount?

7       A    Yes. I did not have a contingent fee  
8 agreement, so I was not really concerned about the  
9 amount.

10      Q    You told me earlier that the parties agreed  
11 prior to the jury going out that if the jury returned  
12 with a verdict in excess of \$300,000, that it would  
13 be a judgment against the note?

14      A    Correct. \$300,000 of it would be a  
15 judgment against the note and we would be entitled to  
16 interest and attorney's fees.

17      Q    \$300,000 would be for the note?

18      A    Yes.

19      Q    So, that is, the first \$300,000 would  
20 satisfy the promissory note and whatever was in  
21 excess would be construed as interest and attorney's  
22 fees?

1 A That's correct. It was \$391,000. I wasn't  
2 too far off.

3 Q That was the amount that was awarded by the  
4 jury?

5 A That's right.

6 Q Was this award appealed?

7 A Yes.

8 Q Was there a bond executed pending appeal?

9 A No. There was an escrow agreement.

10 Q Between the two parties?

11 A Yes.

12 Q Pending the outcome of the appeal, an  
13 escrow was for \$400,000, I take it?

14 A It was for an amount sufficient to cover  
15 the judgment interest and costs, anticipated interest  
16 and costs. I don't remember the exact amount.

17 Q Do you know what happened to this appeal?

18 A Yes. It was ultimately dismissed by the  
19 Court of Appeals.

20 Q Did you then exercise your right to the  
21 amount in the escrow?

22 A Well, actually, Mr. Roger Rowe in our

1 office did, yes.

2 Q But you got however, the 390,000-something  
3 plus interest?

4 A We got whatever amount the escrow agreement  
5 provided we would get in the event an appeal was  
6 dismissed, and there was some left for Madison or for  
7 whoever.

8 Q How did you come to find out that the  
9 appeal had been dismissed?

10 A Well, actually I found it out because  
11 Mr. Web Hubbell called me to congratulate me on the  
12 fact that I had finally totally won the case.

13 Q Now, was Mr. Hubbell involved in the trial?

14 A No.

15 Q Did you communicate with Mr. Hubbell during  
16 the course of the trial?

17 A No.

18 Q And certainly you didn't talk about trial  
19 strategy or anything like that with Mr. Hubbell?

20 A No.

21 Q Did you talk with any of his partners  
22 regarding trial strategy?

1 A No.

2 Q I take it that being such an accomplished  
3 litigator, you would keep that pretty close to your  
4 vest?

5 A Well, I don't know how accomplished I am,  
6 but I am pretty confident in my own opinion of trial  
7 strategy.

8 Q And I take it Mr. Hubbell did not offer any  
9 advice as to litigation strategy to you during the  
10 trial?

11 A He did not.

12 Q Did Mr. Hubbell attend the trial that you  
13 noticed?

14 A Not to my knowledge.

15 Q He testified that he attended the closing  
16 argument to hear the master speak, as I believe was  
17 his exact quote.

18 A I wouldn't really know who was in the  
19 courtroom other than the judge and the jury for the  
20 closing argument.

21 Q You usually focus on the judge and the jury  
22 rather than on the spectators?

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1 A That's right.

2 Q So you did not notice Mr. Hubbell?

3 A I did not.

4 Q Was Mr. Hubbell's phone call congratulating  
5 you on the final outcome of the case your first  
6 communication with Mr. Hubbell regarding the case?

7 A As far as I recall, yes.

8 Q Did you call to thank him after you  
9 retained Mr. Ward for referring Mr. Ward to you?

10 A No, I did not.

11 Q Did you subsequently come to find out that  
12 the RTC had removed the case to federal court?

13 A Yes, sir.

14 Q And was that the reason why the appeal was  
15 dismissed in state court?

16 A No, it wasn't. I don't recall that the  
17 court entered an order dismissing. My understanding  
18 was that it was dismissed because the appellate had  
19 never filed a brief and had gotten repeated  
20 continuances, and the Court of Appeals finally got  
21 tired of it sitting there and dismissed it.

22 Q It was dismissed for want of prosecution,



1 from what you understand?

2 A I don't remember the exact language, but I  
3 assume that was the reason it was dismissed.

4 Q How did you come to find out the RTC had  
5 removed the case to federal court?

6 A They served a petition for removal on me,  
7 I'm sure.

8 Q Do you recall approximately when this was  
9 after you had collected a judgment on the Ward  
10 litigation on the case?

11 A No. It was before that.

12 Q It was before that?

13 A Yes. I'm trying to remember now. It seems  
14 to me that the FDIC removed it before the RTC came  
15 into existence, if my recollection is correct.

16 Q So, they removed it before the Court of  
17 Appeals dismissed the appeal in the case?

18 A Oh, yes, yes.

19 Q Now, how much time elapsed before the  
20 occasion that you recused yourself from the case?  
21 How much time between your collection of the judgment  
22 and the suggestion from the RTC that you disqualify

1 from the case because of the conflict of interest  
2 with your law firm?

3 A That collection of judgment came after.

4 Q At that time you were not involved with the  
5 case, you were not representing Mr. Ward anymore?

6 A Mr. Ray was representing Mr. Ward at that  
7 time, and Mr. Rowe and I were named as the  
8 individuals who could invoke Mr. Ward's entitlement  
9 to the escrow money.

10 Q Mr. Ray wasn't named as the individual?

11 A Mr. Ray had nothing to do with the case at  
12 the time the escrow agreement was executed.

13 Q I see. At the time the escrow agreement  
14 was executed, you and Mr. Rowe were named as the  
15 individuals in this case, you at that time as  
16 representing Mr. Ward?

17 A Yes. We were named as the representatives  
18 of Mr. Ward in connection with that escrow  
19 agreement. I imagine Ms. Bartley was named as the  
20 representative of Madison.

21 Q It was under that capacity that you  
22 collected the proceeds from the escrow on behalf of

1 Mr. Ward?

2 A That's correct.

3 Q You were not representing him in any other  
4 form or fashion?

5 A No, sir.

6 Q But the removal notice was served on you.  
7 Was that before or after the disqualification?

8 A I am positive in my own mind that the  
9 removal notice was served on me, because it was only  
10 after the removal that Mr. Ray became involved in the  
11 case. I was handling the defense of the appeal. The  
12 first indication -- that is not true. I knew that  
13 the FDIC had been involved for a long time. But the  
14 first time they came out on the front was when they  
15 filed a petition for removal, either they did or RTC  
16 did. I don't remember exactly.

17 Q So up until that petition for removal,  
18 there was no conflict obviously because the RTC was  
19 not a party to the case?

20 A That was my understanding. Of course,  
21 there wasn't anything going on.

22 Q You had already won the trial?

1 A Notice of appeal had been filed, an appeal  
2 had been lodged in the Court of Appeals and there it  
3 was. We were waiting for a brief of appellates.

4 Q It was subsequent to this notice of removal  
5 that you were disqualified from the case and Mr. Ray  
6 took over?

7 A I'm sure that's correct. At least that's  
8 my recollection of it.

9 Q Other than the phone call that Mr. Hubbell  
10 placed to you to congratulate you on ultimately  
11 winning the appeal, did Mr. Hubbell have any more  
12 involvement in the case?

13 A Not to my knowledge.

14 Q Was that your last involvement with the  
15 case or Mr. Ward in a professional capacity?

16 A Yes.

17 Q What about your firm? Did your firm have  
18 any other involvement with the case or with Mr. Ward?

19 A Not to my knowledge.

20 Q In 1990, did your firm, you or your firm  
21 enter into an agreement with Mr. Ward that he would  
22 pay a or bond a final judgment the RTC may obtain

1 against Mr. Ward in any litigation between Mr. Ward  
2 and the RTC?

3 A Yes.

4 Q Can you tell me the circumstances of that  
5 agreement?

6 A Well, the RTC was seeking to recoup the  
7 amount of the judgment from Mr. Ward.

8 Q The approximately \$400,000 judgment that  
9 you or Mr. Rowe collected from the escrow?

10 A Right.

11 Q This was done in federal district court?

12 A Yes, that's correct. I think that the -- I  
13 didn't have anything to do, frankly, with that  
14 execution. I think it was executed to assure the  
15 firm that Mr. Ward acknowledged that it was his  
16 responsibility if the RTC got a judgment against him  
17 if he would pay it.

18 Q And you mentioned that your fee for the  
19 case was not on a contingency basis.

20 A Was not.

21 Q So your fees and the payment for your  
22 services did not depend on the \$400,000?

1 A No. We had already collected our fee.

2 Q And Mr. Rowe's collection of the \$400,000  
3 was only in service to Mr. Ward, I take it?

4 A Yes.

5 Q I take it the money went to Mr. Ward?

6 A Absolutely. We did not charge him any  
7 additional fee.

8 Q Therefore, the execution of the agreement  
9 was simply to indemnify the firm from whatever the  
10 RTC may recover from Mr. Ward with respect to that  
11 \$400,000?

12 A It was, as I understood it, if the RTC  
13 contended that we had gotten the money and therefore  
14 we had some liability, that Mr. Ward would recognize  
15 that it was his liability and not ours.

16 Q Because you did not get any of the  
17 \$400,000?

18 A We did not get any of it, that's right.

19 Q You said you weren't involved with the  
20 execution of that, for lack of a better word, an  
21 indemnification agreement. Was another member of  
22 your firm involved in that?

1 A Yes, I'm sure he was. I would guess that  
2 our managing partner was.

3 Q Who was your managing partner at that time?

4 A Isaac Scott.

5 Q Is he still the managing partner?

6 A No, we have had a recent change.

7 Q Is Mr. Scott still with the firm?

8 A Oh, yes.

9 Q Did you know who represented Mr. Ward with  
10 respect to that agreement with your firm?

11 A I'm assuming nobody did, but I don't know.  
12 He may have asked Mr. Ray to look at it, probably  
13 did. Mr. Ray was representing him at the time.

14 Q You do not know of any involvement by  
15 Mr. Hubbell with respect to that agreement?

16 A No, none.

17 Q You mentioned that you know Mr. Hubbell  
18 more on a professional basis in Little Rock.

19 A That's true. As I say, he lived three or  
20 four doors down the street from me. He was active in  
21 the community, and I knew him as a lawyer and as a  
22 friend.

1 Q So, both social and professional dealings  
2 with him?

3 A Yes, but more professional.

4 Q Let me just put a time frame on this. The  
5 trial concluded in 1988; correct?

6 A That's correct. The judgment was dated  
7 September 6. But I think we had some motions with  
8 regard to attorney fees for notes. I think the last  
9 day of the trial was the 30th, if my memory serves  
10 me.

11 Q Do you recall approximately when Mr. Ray  
12 took over -- did Mr. Ray take over your  
13 representation of Mr. Ward immediately upon your  
14 recusal from the case?

15 A Yes.

16 Q Do you recall approximately when that was?

17 A Again, it would have had to have been  
18 sometime in 1989.

19 Q Sometime in 1989. Was it late 1989?

20 A No. I would have thought it was in the  
21 spring.

22 Q The spring of 1989.



1       A    You have six months to lodge an appeal in  
2   Arkansas after the notice of appeal, which makes  
3   seven months from the date of judgment. So, the  
4   judgment was dated September 6th. The appeal would  
5   have had to have been lodged within seven months of  
6   that date, and the appeal had been lodged before the  
7   petition for removal was filed.

8       When the petition for removal was filed, it  
9   is my best recollection right about that time when we  
10   recused.

11      Q    It was approximately, if one looks back to  
12   the district court record in Arkansas relating to the  
13   RTC case against Madison relating to the Madison  
14   matter, it was approximately the time of the removal  
15   of the Ward v. Madison Guaranty litigation?

16      A    That's correct.

17      Q    Did you continue your friendship with  
18   Mr. Hubbell when he came to Washington as Associate  
19   Attorney General?

20      A    Yes, I did.

21      Q    Again, was this primarily social or was it  
22   also professional?

1       A    It was entirely social. I had lunch with  
2   Web one time when I was up here. I think I was up  
3   here for a meeting.

4       Q    Do you recall when approximately that was?

5       A    No. It would have had to have been in  
6   1993. I know that much. I think I was attending a  
7   meeting of the American College of Trial Lawyers. I  
8   called Web and took him to lunch.

9       Q    You had one lunch with Mr. Web Hubbell?

10      A    That's my recollection.

11      Q    Did you call Mr. Hubbell from time to time?

12      A    I can't remember any calls to Mr. Hubbell  
13   other than that call while I was in Washington. I  
14   could have. It wouldn't have been anything out of  
15   the ordinary if I had.

16      Q    Do you recall if your meeting with  
17   Mr. Hubbell, your ACTL meeting and your trip to  
18   Washington was approximately in the summer of 1993?

19      A    It sounds about right, yes.

20      Q    You would have placed calls to Mr. Hubbell  
21   in order to set up the lunch, I presume?

22      A    That's my recollection.

1 Q The reason I ask is that we have records  
2 indicating that you left messages for Judge Hubbell  
3 on June 8th, twice, of 1993. Would that have been  
4 associated with that lunch?

5 A I assume so, yes. That time frame sounds  
6 right.

7 Q Does that reflect your recollection as to  
8 the approximate time frame of the meeting?

9 A I believe that that meeting was in  
10 September.

11 Q You believe that meeting was in September?

12 A Are those long-distance calls?

13 Q Yes, they were. Your return phone call was  
14 371-0808.

15 A So that would have been calls from Little  
16 Rock.

17 Q You called Mr. Hubbell to arrange the lunch  
18 when you were in town; correct?

19 A I beg your pardon?

20 Q You called Mr. Hubbell to arrange lunch,  
21 you were already in town?

22 A I was in Washington, yes. My best

1 recollection was that that was -- when did Vince  
2 commit suicide? July of 1993?

3 Q July 20, 1993.

4 A This meeting that I was here for was after  
5 that.

6 Q Do you recall to what purpose did you call  
7 Mr. Hubbell with respect to those two phone calls,  
8 the records of which I am handing you?

9 A Well, two on June 8th.

10 Q Yes.

11 A I guess I called him and when he didn't  
12 call back, I called him again. I do not have any  
13 recollection of these.

14 Q Were you working on any case that may have  
15 prompted you to call Mr. Hubbell?

16 A I can't conceive of anything.

17 Q We have a record of you -- I'm sorry.

18 A I'm going to correct myself. I was working  
19 on a case that involved Mr. Hubbell.

20 Q What case was that?

21 A That was a case that he had tried for POM,  
22 a parking meter company run by Mr. Skeeter Ward.

1 Q What was your affiliation with that case?

2 A I was representing POM.

3 Q Basically you took over Mr. Hubbell's  
4 representation of POM in the matter?

5 A Not quite accurate. The matter that  
6 Mr. Hubbell was representing them had been concluded,  
7 and I was not involved in that matter. But after  
8 Mr. Hubbell came to Washington, Mr. Skeeter Ward  
9 contacted me with whatever problems he had.

10 Q Mr. Skeeter Ward is Mr. Seth Ward's son?

11 A That's correct.

12 Q When you say with whatever matter that he  
13 had, were they specific cases that he wanted you to  
14 take a look at or was it more of a general counsel  
15 position?

16 A I tried a lawsuit alleging violation by a  
17 competitor of a patent and lost it.

18 Q Do you recall approximately when this was?  
19 It must have been a very rare occasion that you  
20 lost.

21 A Oh -- no, not all that rare. It was -- it  
22 could have been '94 or '93, in that area.

1 Q Was that after Vince Foster had passed  
2 away?

3 A I don't recall. I think very probably it  
4 was after, but I really don't know for sure.

5 Q When did you start your representation of  
6 POM?

7 A I couldn't tell you that with any  
8 exactness. It was after Web left and I guess they  
9 decided they didn't want to go to the firm, to the  
10 Rose firm. It was sometime after that.

11 Q Do you remember the first matter that you  
12 handled for Mr. Skeeter Ward and POM?

13 A I believe that the patent infringement was  
14 the first one.

15 Q Was the first matter. So, again, do you  
16 recall whether this June 8, these two calls made on  
17 June 8, 1993 were related to your representation of  
18 POM?

19 A I suspect that they were.

20 Q You suspect that they were. Let me show  
21 you now a copy of another message pad reflecting a  
22 call from you to Judge Hubbell dated July 27, 1993.

1 To put the one event in context, July 20th was when  
2 Vince Foster passed away.

3 A I would be almost positive that would be in  
4 connection with Foster's suicide.

5 Q You called to express your condolences to  
6 Judge Hubbell?

7 A I would certainly think that's what that  
8 was.

9 Q Do you recall making that call to  
10 Mr. Hubbell?

11 A I don't have an independent recollection.  
12 But Vince Foster was a close friend of mine. I know  
13 I was horrified. I assume that -- I just assume that  
14 was what it was, but I don't really know.

15 Q Did you put in a call to the First Lady or  
16 President Clinton?

17 A I could have called the First Lady. I  
18 don't remember ever putting in a call to President  
19 Clinton.

20 Q Did you know the First Lady then?

21 A Very well, yes.

22 Q Let me move to October of 1993 and ask

1 whether you have any recollection of calling Judge  
2 Hubbell then and, if so, regarding what.

3 A I don't have any independent recollection.  
4 It could have been in connection with the POM  
5 business.

6 Q You did talk from time to time with  
7 Mr. Hubbell regarding POM?

8 A Yes, I did.

9 Q On the basis that he had previously  
10 represented POM?

11 A Well, actually, it was on the basis of a  
12 dispute with regard to fee.

13 Q Mr. Hubbell's fees for previous  
14 representation of POM?

15 A Correct.

16 Q You were representing POM in that capacity?

17 A That's correct.

18 Q The reason I ask is that -- let me show you  
19 these two records of phone calls on the 8th of  
20 October.

21 A Yes. I usually call somebody and leave a  
22 message and they don't call me back and I call them



1 again.

2 Q I'm surprised it happens to you. It  
3 happens to me all the time, but I understand why it  
4 happens to me.

5 That doesn't refresh your recollection?

6 A Not as to anything specific, no.

7 Q Let me ask you this: Do you recall any  
8 specific conversations you had with Mr. Hubbell other  
9 than the phone call you placed to Mr. Hubbell to  
10 arrange the lunch while you were in town?

11 A I recall that I talked to Mr. Hubbell on  
12 several occasions with regard to expert witnesses who  
13 had testified in the lawsuit that Mr. Hubbell handled  
14 for POM and had not been paid. They were looking to  
15 POM to pay them. I was conversing with Mr. Hubbell  
16 about that.

17 Q And it was your understanding that  
18 Mr. Hubbell or at least the Rose Law Firm was to pay  
19 the expert witnesses?

20 MR. COLE: Excuse me. I would like to  
21 interject here, if I could, Mr. Dinh. Mr. Jennings  
22 certainly doesn't need any help from me, but while I

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1 see perhaps the relevance of these inquiries in  
2 establishing that some of these contacts with  
3 Mr. Hubbell don't pertain to the matters that are  
4 specified in Senate Resolution 120, I don't see the  
5 point of any detailed inquiry into POM matters or  
6 other legal matters that Mr. Jennings or Mr. Hubbell  
7 may have been handling for the Wards. I just note  
8 that because I see a possible nexus there, but at  
9 some point I think we go beyond that in the  
10 questions.

11 MR. DINH: Thank you for that, Lance. I  
12 will keep note of that. I just wanted to bring the  
13 loop fully in circle with my understanding as to why  
14 you were communicating with Mr. Hubbell.

15 BY MR. DINH:

16 Q That is your understanding was that POM was  
17 not to pay the expert witnesses with respect to this  
18 prior trial?

19 A We were very vigorously resisting paying  
20 them, yes.

21 Q It was your understanding that Mr. Hubbell  
22 or the Rose Law Firm was to pay the witnesses?

1 A Well, I was just talking to Web about the  
2 fact that his father-in-law didn't think he ought to  
3 pay that.

4 Q And was the matter finally resolved?

5 A I really don't know. I don't know how it  
6 came out.

7 Q I'm sorry?

8 A I don't know how it came out. I know POM  
9 didn't pay it.

10 Q Do you still represent POM?

11 A No.

12 Q When did your representation cease?

13 A Oh, I think we finished up whatever we were  
14 doing maybe '94, '95.

15 Q Was the patent infringement matter your  
16 last matter that you handled for POM?

17 A I couldn't be sure about that. We had one  
18 of our lawyers who is a patent attorney was also  
19 doing some work for POM. I don't have a sequence of  
20 events.

21 Q In any event, you do not now represent POM?

22 A I do not.

1 Q Was it in early 1995, if you can put a time  
2 frame on it?

3 A I couldn't. But it has been well over a  
4 year, I know.

5 Q Actually, I found it. I'm going to show  
6 you a record of phone call you made to Mr. Hubbell  
7 dated April 22, 1994. There you were calling from  
8 the Willard Hotel. It is the top corner here.

9 A Okay. What is the date there?

10 Q It is April 22nd. It is 4:22. You can't  
11 really read it very well.

12 A That's '94?

13 Q 1994, I believe, yes.

14 A That's bound to have been -- yes. That's  
15 when I asked to have lunch with him.

16 Q That's consistent with your earlier  
17 testimony you called him from town?

18 A Yes.

19 Q Did you stay at the Willard when you were  
20 in town for the American College of Trial Lawyers?

21 A I stay at the Hay-Adams, the Willard and  
22 the JH Marriott, and where I stayed on that

1 particular trip, I assume I was at the Willard.

2 Q You mentioned earlier that you know the  
3 First Lady. In what context do you know the First  
4 Lady?

5 A Well, I litigated against her, and I have  
6 considered her a friend.

7 Q Do you know the President?

8 A Yes.

9 Q Do you consider him a friend also?

10 A Absolutely.

11 Q But you are better friends with the First  
12 Lady than the President?

13 A Well, I don't know --

14 Q Not to ask you to take sides or pick  
15 favorites here.

16 A I don't know that that is true.  
17 Mr. Clinton was a lawyer in our office for a year. I  
18 knew him I guess from the time he was Attorney  
19 General. When you have a lawyer who works for you in  
20 your office, you get to be friends.

21 Q You said that you started knowing  
22 Mr. Clinton when he was then Attorney General, which

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1 was around '78-79?

2 A Yes.

3 Q Was that approximately the same time that  
4 you got to know Mrs. Clinton or was it earlier or  
5 later?

6 A I expect I didn't know her that well at  
7 that point.

8 Q When did you forge a friendship with  
9 Mrs. Clinton?

10 A I couldn't give you a date to save my  
11 life. I spent a week in depositions in London with  
12 her in one matter. I have tried a number of cases  
13 with her.

14 Q From this professional relationship, you  
15 developed into a friendship with her and the  
16 President?

17 A Yes, certainly.

18 Q Would she take a phone call from you now?

19 A I would think so.

20 Q And likewise, the President?

21 A The President called me on one occasion,  
22 but I don't remember ever calling him.

1 Q So, you never had occasion to test it out?

2 A No. That's right.

3 Q But you have called Mrs. Clinton from time  
4 to time?

5 A I would say I probably have, yes.

6 Q How about a meeting? Can you call and set  
7 up lunch with the First Lady as you did with  
8 Mr. Hubbell when you are in town?

9 A I have never tried to set up lunch with  
10 her. I have met with her.

11 Q Have you met with her at the White House?

12 A Yes.

13 Q How many times have you met with her at the  
14 White House?

15 A I recall two.

16 Q This was for the purpose of meeting with  
17 Mrs. Clinton?

18 A I went to the White House to meet with  
19 Mrs. Clinton, yes.

20 Q Have you been to the White House since  
21 President Clinton has been President for any other  
22 purpose except for visiting with Mrs. Clinton?

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1 A Yes.

2 Q And can you tell me how many times you have  
3 done that?

4 A The best of my recollection is that on one  
5 other occasion I visited the White House and met with  
6 Mr. Bruce Lindsey.

7 Q Mr. Bruce Lindsey likewise you consider a  
8 friend?

9 A He was a former partner of mine. His  
10 father was my partner and we practiced law together  
11 for over 40 years.

12 Q His father and you practiced law together  
13 for over 40 years?

14 A Yes. Bruce hadn't been around long  
15 enough.

16 Q Can I ask you approximately when these  
17 visits were?

18 A The visit with Bruce was before Vince  
19 Foster's death, because I saw Vince there.

20 Q Approximately how long before?

21 A I couldn't tell you to save my life.

22 Q Two months, three months?



- 1 A Could have been.
- 2 Q And the two visits with Mrs. Clinton?
- 3 A Yes.
- 4 Q When were those?
- 5 A I assume that one of them was in 1995.
- 6 There was one prior to that time.
- 7 Q How much prior? Was it around the time of
- 8 Mr. Foster's death or was it subsequent or before?
- 9 A I think it was subsequent.
- 10 Q It was after July 1993?
- 11 A Yes.
- 12 Q What was the purpose of that visit?
- 13 A Primarily social.
- 14 Q Any other reason other than a social
- 15 reason?
- 16 A No. I wanted to see the White House.
- 17 Q So primarily social but also personal?
- 18 A Yes.
- 19 Q Was that the same time you were in town for
- 20 the ACTL conference?
- 21 A I don't know that. I really and truly
- 22 don't. It was on some occasion when I was in

- 1 Washington for some reason.
- 2 Q But you did not come to Washington in order
- 3 to meet with Mrs. Clinton?
- 4 A I didn't make a special trip to Washington
- 5 to meet with her, as far as I can recall.
- 6 Q Your visit with her at that particular time
- 7 was primarily social?
- 8 A Yes.
- 9 Q You didn't discuss any case or any other
- 10 professional matters with her?
- 11 A No.
- 12 Q And I take it you did not discuss your
- 13 representation of Mr. Ward with her?
- 14 A No, definitely did not.
- 15 Q Let me focus now on your visit to the White
- 16 House that you said occurred in 1995.
- 17 A That's what I have been told by you. I
- 18 think that is probably right.
- 19 Q Do you recall this visit this last year to
- 20 Mrs. Clinton?
- 21 A I recall a visit that probably was in
- 22 1995.

1 Q Do you recall it was approximately August  
2 of 1995?

3 A That sounds about right.

4 Q Maybe August 10 of 1995?

5 A I wouldn't be surprised.

6 Q Your visit to the White House on this  
7 particular occasion was to see Mrs. Clinton?

8 A Yes.

9 Q And do you recall what the purpose of your  
10 visit with Mrs. Clinton was?

11 A Yes, very clearly.

12 Q Okay.

13 A Dave Kendall got in touch with me through  
14 one of my partners, and apparently there was concern  
15 that there was going to be some kind of publication  
16 contending that Mrs. Clinton was really not a  
17 lawyer.

18 Mr. Kendall asked me if I had any  
19 experience with Mrs. Clinton as a lawyer, and I told  
20 him that I had. As a result of that discussion, as I  
21 recall, I talked to other people who had or might  
22 have had contact with Mrs. Clinton as a lawyer, and I

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1 refreshed my recollection concerning at least five  
2 occasions in which I have appeared in court at the  
3 same time Mrs. Clinton did.

4 Apparently Mr. Kendall thought that it was  
5 sufficiently important for me to visit personally  
6 with Mrs. Clinton about that matter, and I did so.

7 Q So, Mr. Kendall contacted one of your  
8 partners. Do you remember which partner it was?

9 A My best guess is it was John Tisdale.

10 Q Did Mr. Kendall request specifically your  
11 recollection or did he ask Mr. Tisdale to find a  
12 witness for her professional abilities?

13 A I do not know the answer to that.

14 Q But Mr. Tisdale approached you?

15 A Mr. Tisdale knew that I had business on the  
16 other side from Mrs. Clinton, and he approached me.

17 Q After that, did you have any direct  
18 conversation with Mr. Kendall?

19 A Yes.

20 Q And subsequent to your conversation with  
21 Mr. Kendall was when you went out and collected  
22 witnesses and refreshed your memory with respect to

1 the five matters?

2 A Well, I didn't exactly go out. I made  
3 telephone calls, and I did refresh my recollection  
4 about cases that I had with her.

5 Q And then you called Mr. Kendall back, I  
6 take it?

7 A Yes.

8 Q Based on your statements that you made to  
9 Mr. Kendall, he requested that you see Mrs. Clinton  
10 personally?

11 A Yes.

12 Q And so he asked that you come to  
13 Washington?

14 A I guess. I don't know whether that was the  
15 only business I had in Washington or not. I really  
16 don't recall whether I came for that sole purpose of  
17 seeing Mrs. Clinton.

18 Q One of the purposes before you left was to  
19 see Mrs. Clinton?

20 A Absolutely. Arrangements had been made for  
21 me.

22 Q Arrangements by Mr. Kendall?

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1 A Yes.

2 Q Do you recall what publication?

3 A No. Somebody is going to write a book, I  
4 think. I don't know. That's the impression I got.

5 Q Did you talk to this person who was going  
6 to write a book?

7 A No. All I had was a rumor that people were  
8 going to attack Mrs. Clinton on her ability and her  
9 actual practice as a lawyer, and they would like to  
10 be prepared to refute any contention that she was not  
11 really a lawyer. I don't know who was going to  
12 publish it or how or what they --

13 Q So you collected materials to help prepare  
14 Mr. Kendall and Mrs. Clinton to refute this charge?

15 A I collected information.

16 Q I take it you have high esteem for  
17 Mrs. Clinton's legal abilities?

18 A She is a tough litigator.

19 Q That is probably the best compliment one  
20 gets from opposing counsel.

21 And what sort of information did you  
22 gather? Were they in the form of personal

1 testimonials or names or cases?

2 A No. I just called people and said you have  
3 had experience with Hillary, what kind of lawyer is  
4 she. I had several of them say she is A-1.

5 Q Did you give the names of the people you  
6 contacted to Mrs. Clinton or Mr. Kendall?

7 A I gave them to Mr. Kendall and I'm sure I  
8 also gave them to Mrs. Clinton.

9 Q And in your meeting with Mrs. Clinton, you  
10 relayed this information that so-and-so and so-and-so  
11 thinks you are an A-1 lawyer?

12 A Yes.

13 Q And you gave them a list of names?

14 A I think I had a little memorandum, but I'm  
15 not positive about that.

16 Q I presume that memorandum also included the  
17 five matters which you personally had in front of  
18 Mrs. Clinton?

19 A Yes. Mrs. Clinton and I visited and  
20 relived those trials. She won two and I won one.  
21 So, I would have to say she was an able litigator.

22 Q The other two matters that --

1 A They were not adversarial. I was just in  
2 court when she was there. I saw her in court and saw  
3 how she performed, although I was not her adversary.

4 Q You said you relived these, I guess a  
5 lawyer's war stories.

6 A That's correct.

7 Q How long of a visit was this?

8 A I would be strictly guessing, but I would  
9 guess 20 minutes to half an hour at most.

10 Q Let me ask you to back up a little bit with  
11 respect to this particular visit. Mr. Kendall made  
12 arrangements for you to come to the White House and  
13 meet with Mrs. Clinton. Did somebody from his office  
14 come with you or did Mr. Kendall come with you?

15 A Mr. Kendall came with me.

16 Q Do you remember when you came to the White  
17 House who came down to greet you two?

18 A No.

19 Q But it wasn't Mrs. Clinton?

20 A I don't think so. Mr. Kendall apparently  
21 knew his way around the White House pretty well.

22 Q And so after you were signed in at the



1 gate, Mr. Kendall led you to your meeting place. Do  
2 you recall where the meeting place was?

3 A I have a recollection that I was told that  
4 the room we were in was what President Roosevelt  
5 called the "war room." I just have an impression  
6 that that's what I was told.

7 Q Do you recall what floor it was on?

8 A No. I don't remember going up any stairs.

9 Q You don't remember going up the stairs?

10 A No.

11 Q Elevators?

12 A I don't remember.

13 Q Did you enter through the entrance that is  
14 the main White House entrance that is on the north  
15 side of the White House off Pennsylvania Avenue?

16 A Pennsylvania Avenue, yes.

17 Q Was anybody else present at the meeting  
18 besides you and Mr. Kendall?

19 A No.

20 Q And the meeting lasted approximately 20 to  
21 30 minutes?

22 A That's my best recollection.

1 Q After the meeting concluded, did you and  
2 Mr. Kendall leave together?

3 A Yes.

4 Q Did you leave the White House also  
5 together?

6 A Yes.

7 Q Other than discussing the three cases that  
8 you had personal involvement with with Mrs. Clinton,  
9 what else did you talk about?

10 A Oh, I guess we just had a social visit. I  
11 don't know of anything else.

12 Q How things are in Arkansas and how things  
13 are in Washington?

14 A That sort of thing.

15 Q Did you talk at all about the investigation  
16 that was going on here at the Senate?

17 A Not to my recollection.

18 Q Did she initiate any such conversation or  
19 comment?

20 A Oh, we could have had a conversation of me  
21 saying I know you are getting hit on but keep a stiff  
22 upper lip or something like that. But I don't

- 1 remember any specific conversation about the  
2 investigation.
- 3 Q Certainly no substantive discussion?
- 4 A No.
- 5 Q Did you discuss at all your involvement  
6 with Mr. Ward with respect to the Madison Guaranty  
7 matter?
- 8 A No.
- 9 Q Have you ever had any such discussion with  
10 Mrs. Clinton?
- 11 A Not to my knowledge.
- 12 Q Have you ever had any discussion with  
13 Mrs. Clinton regarding Seth Ward in general?
- 14 A I can't recall any.
- 15 Q How about any discussions with Mrs. Clinton  
16 regarding Madison Guaranty Savings & Loan  
17 Association?
- 18 A I can't remember ever talking to her about  
19 Madison on any occasion.
- 20 Q To Mr. Kendall on the same subjects?
- 21 A No. I never talked to him about much.
- 22 Q Other than this one involvement with

- 1 Mr. Kendall, have you had other involvement with  
2 Mr. Kendall?
- 3 A I had one other occasion when he came to  
4 Little Rock and wanted to talk to Mr. Seth Ward.
- 5 Q Do you recall approximately when this was?
- 6 A In the fall of '95.
- 7 Q In the fall of 1995. Was it before or  
8 after your visit to the White House?
- 9 A After.
- 10 Q After your visit to the White House. So,  
11 he called you up and asked whether he could meet  
12 Mr. Ward?
- 13 A Yes.
- 14 Q Because he knew that you had previously  
15 represented Mr. Ward?
- 16 A He asked me if I could make arrangements  
17 for him to talk to Mr. Ward, and I said I see  
18 Mr. Ward frequently and I will certainly ask him.
- 19 Q Your involvement at this time, I take it,  
20 was not as Mr. Ward's attorney but as a friend?
- 21 A That's correct.
- 22 Q You are not Mr. Ward's attorney at this

- 1 point?
- 2 A I am not.
- 3 Q And not even in the fall of 1995?
- 4 A Excuse me?
- 5 Q And not even in the fall of 1995?
- 6 A I was not, no.
- 7 Q Do you know if Mr. Ward subsequently talked
- 8 with Mr. Kendall?
- 9 A Yes, he did.
- 10 Q Approximately how long after Mr. Kendall
- 11 approached you?
- 12 A I don't know. It was fairly soon, I
- 13 presume.
- 14 Q Were you there at that meeting?
- 15 A Yes.
- 16 Q Do you recall approximately how long was
- 17 this meeting?
- 18 A Half an hour maybe.
- 19 Q And this was taking place in Little Rock?
- 20 A Yes.
- 21 Q Was it in your offices?
- 22 A Yes.

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- 1 Q And what in substance was the nature of the
- 2 conversation between Mr. Ward and Mr. Kendall?
- 3 A Basically, it was whether or not Mr. Ward
- 4 had any knowledge of any participation by
- 5 Mrs. Clinton in the Madison Guaranty business, and
- 6 Mr. Ward just said he didn't know, he didn't recall.
- 7 Q Did not recall. Okay.
- 8 Did Mr. Kendall ask Mr. Ward specifically
- 9 about the IDC transactions or the Castle Grande
- 10 transaction?
- 11 A No, I don't recall that he did.
- 12 Q Did he talk to you regarding that case?
- 13 A No.
- 14 Q The meeting lasted for approximately half
- 15 an hour?
- 16 A That's my recollection.
- 17 Q Besides his inquiry into whether Mr. Ward
- 18 had any recollection of Mrs. Clinton representing
- 19 Madison Guaranty, what else did you talk about?
- 20 A That was all that I recall.
- 21 Q And Mr. Ward was not able to be of help on
- 22 this particular matter?

1       A    Mr. Ward said he just did not have any  
2 recollection. Mr. Ward is not quite as old as I am,  
3 but he is 75 or 76. He has had very serious health  
4 problems, and I would say that as far as memory goes,  
5 that Mr. Ward is not -- Mr. Ward doesn't have the  
6 best memory in the world. All he said was he just  
7 didn't recall.

8       Q    Did Mr. Kendall ask Mr. Ward whether he had  
9 any documents that may have pertained to Madison  
10 Guaranty or Mrs. Clinton's work for Madison Guaranty?

11      A    I don't recall him speaking about any  
12 documents.

13      Q    And I take it that Mr. Ward did not offer  
14 any such documents?

15      A    That's right.

16      Q    He didn't bring any documents to the  
17 meeting?

18      A    No.

19      Q    Did Mr. Kendall show him any documents to  
20 try to refresh his memory?

21      A    I think he might have.

22      Q    What sort of documents did he show him?

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1       A    I think he showed him some time records.

2       Q    Do you recall what these time records  
3 looked like?

4       A    I didn't even look at them.

5       Q    Do you recall like what sort of paper it  
6 was on? Was it on a large sheet of paper? Was it on  
7 an 8-1/2 by 11?

8       A    I don't recall at all.

9       Q    But he did show Mr. Ward to see whether  
10 Mr. Ward recalled the specific instances of  
11 representation?

12      A    I think he referred to specific time  
13 records, maybe two, three or so, and asked Mr. Ward  
14 if he recalled those, and he said no, I just don't  
15 have any recollection.

16      Q    He just doesn't remember those events?

17      A    No.

18      Q    Of course, this would go back to 1985 and  
19 '86, so it is quite a long time ago.  
20 Understandable.

21      A    Yes. Mr. Ward fell out of a second-story  
22 window and damn near killed himself after that.



- 1 Q "After that" meaning after 1985 --  
2 A After the trial.  
3 Q After the 1988 trial?  
4 A After 1988, yes.  
5 Q Did Mr. Kendall show Mr. Ward any other  
6 documents that you can recall?  
7 A None that I recall. I'm reasonably certain  
8 he did not.  
9 Q You stated this was in the fall of 1995 and  
10 it was after your visit to Mrs. Clinton.  
11 A Yes. It was after August.  
12 Q It was after August. Your visit was August  
13 10th. Can you recall whether it was before or after  
14 Thanksgiving?  
15 A No, not really.  
16 Q But it was certainly before Christmas?  
17 A Yes, it was before Christmas.  
18 Q So, it was sometime between August and  
19 December of 1995?  
20 A Yes, that would be my recollection, yes.  
21 Q But you can't pin it with respect to  
22 Thanksgiving one way or the other?
- 

- 1 A No.  
2 Q Did they talk about anything else other  
3 than Mrs. Clinton's representation of Madison  
4 Guaranty?  
5 A Not that I recall.  
6 Q After this meeting, did Mr. Kendall  
7 subsequently contact you or, to your knowledge,  
8 Mr. Ward to follow up on the meeting?  
9 A To my knowledge, he did not. I'm  
10 reasonably certain he didn't contact Mr. Ward again,  
11 and I don't recall any contact with me.  
12 Q Other than this one other occasion when  
13 you -- other than when he contacted you regarding the  
14 First Lady and when he contacted you about Mr. Ward,  
15 did you have any other occasion to talk to  
16 Mr. Kendall?  
17 A Mr. Kendall?  
18 Q Yes.  
19 A I don't think so. Mr. Kendall is a partner  
20 in Williams & Connolly. Paul Connolly was a very  
21 close personal friend of mine. We may have had a  
22 conversation about that, but I can't recall it.

1 Q It was relating to your friend and  
2 obviously his predecessor at the firm?

3 A Yes.

4 Q A very famous and able lawyer, as a matter  
5 of fact, for that matter. How about Mr. Kendall's  
6 partner, Mr. Robert Barnett? Do you know who he is?

7 A I don't believe I do.

8 Q I take it you have not had any contact with  
9 Mr. Barnett not relating to Madison or the First Lady  
10 or the President?

11 A No.

12 Q Let me turn back now to your August 10,  
13 1995 meeting with Mrs. Clinton. While you were at  
14 the White House, did anybody give you a tour?

15 A No.

16 Q You just came in for the meeting and you  
17 came out after the meeting?

18 A I have had a small tour when I visited  
19 Bruce Lindsey. But on that occasion, there was no  
20 tour.

21 Q A small tour, 15 minutes or so?

22 A Well, we went to Mack McLarty's office.

1 Mack is a friend of mine. We visited with him and  
2 had lunch.

3 Q In the White House?

4 A In the White House, yes, with Bruce.

5 That's where I -- I can't remember whether Vince sat  
6 at the table or just came by and spoke. I think he  
7 just came by and spoke.

8 Q That was mostly over in the west wing of  
9 the White House where all the offices are near the  
10 Oval Office?

11 A It is where the offices are. By the way, I  
12 saw the Oval Office. Bruce's office was right next  
13 to the Oval Office. He took me around and I did see  
14 the Oval Office.

15 Q Mr. McLarty's office was right next to the  
16 Oval Office?

17 A It seems to me he was in the -- as close to  
18 the Oval Office as Bruce.

19 Q I remember this now. You did not see the  
20 residence itself, the executive residence --

21 A No.

22 Q -- where the bedrooms are and things like

1 that?

2 A No.

3 Q But with respect to this August 10, 1995  
4 meeting, you came in with Mr. Kendall and you left  
5 with Mr. Kendall?

6 A That's correct.

7 Q Did you meet Mr. Kendall at Williams &  
8 Connolly?

9 A I met him at his office.

10 Q Over at Williams & Connolly?

11 A Yes.

12 Q And did you have a conversation with  
13 Mr. Kendall before you left for the White House?

14 A Oh, sure. I told him what I had and I  
15 probably showed him a memo, and I may have given him  
16 a memo; I don't recall.

17 Q You were basically giving him the same  
18 information that you gave on the phone earlier and  
19 also the information you were about to give to  
20 Mrs. Clinton?

21 A Right.

22 Q Did you have any conversation at that time

1 regarding Mr. Ward?

2 A No.

3 Q So, am I correct -- did you have any  
4 conversation with Mr. Kendall prior to your coming to  
5 Washington regarding Mr. Ward?

6 A No.

7 Q So, am I correct to state that other than  
8 your one visit with Mr. Kendall in Little Rock in the  
9 fall of 1995, you have had no other conversations,  
10 contacts or meetings with Mr. Kendall regarding  
11 Mr. Ward?

12 A That's the only occasion that Mr. Ward's  
13 name was mentioned so far as I know.

14 Q Between you and Mr. Kendall?

15 A Yes.

16 Q And the same with respect to Madison  
17 Guaranty?

18 A True.

19 Q And I'm sure you said this before, but just  
20 to make doubly sure, you stated that at no time  
21 during this visit with Mr. Kendall and then  
22 subsequently with Mrs. Clinton did you talk about

1 Mr. Ward or Madison?

2 A That's true.

3 Q It was more generally about her ability as  
4 a lawyer and more specifically as a litigator?

5 A That was the reason for the visit. That's  
6 what we talked about.

7 Q Did you meet with anybody else at the White  
8 House who works at the White House during this visit  
9 to meet with Mrs. Clinton?

10 A In August of '95?

11 Q Yes.

12 A No.

13 Q Even outside of your visit to the White  
14 House, you didn't talk to anybody while you were in  
15 Washington?

16 A While I was in Washington?

17 Q Yes.

18 A I might have talked to people while I was  
19 in Washington. I don't recall any specific names.

20 Q Did you talk to Bruce Lindsey during this  
21 trip?

22 A No, I didn't see him.

1 Q Did you talk to Mack McLarty?

2 A No, I didn't see him.

3 Q Did you talk to anybody else who may have  
4 been in Arkansas?

5 A I don't think so, no.

6 Q Do you know Betsey Wright?

7 A Yes.

8 Q Have you talked to her about Mr. Ward?

9 A I haven't seen Betsey Wright since before  
10 the campaign of '92.

11 Q And you haven't talked to her?

12 A No.

13 MR. COLE: Viet, if this is a convenient  
14 point before we go into another line of inquiry,  
15 could we take a break?

16 MR. DINH: Yes.

17 (Recess.)

18 BY MR. DINH:

19 Q Other than this one occasion in which you  
20 attended the meeting between Mr. Ward and  
21 Mr. Kendall, have you had any other conversations  
22 with Mr. Ward regarding Mrs. Clinton's representation



1 of Madison Guaranty Savings & Loan Association?

2 A Well, I would hate to say that I didn't  
3 have any conversations. Whatever conversations I had  
4 were along the line of, hey, this has been eight  
5 years ago, I don't remember all these things.

6 I see Mr. Ward almost daily. We play gin  
7 rummy together. So, yes, we have probably talked  
8 about it. But that's the gist of what we talked  
9 about.

10 Q These conversations would have taken place,  
11 I take it, within the last six months or so?

12 A Yes.

13 Q Did you have any conversations with  
14 Mr. Ward relating to the subject prior to your  
15 meeting with Mr. Kendall?

16 A I don't recall any.

17 Q But in essence it was Mr. Ward repeating  
18 that he did not recall the specifics of her  
19 representation?

20 A That's right.

21 Q Has anybody else other than Mr. Kendall  
22 contacted you regarding Mr. Ward?

1 A Well, I have had calls -- I had a call from  
2 your office saying they wanted to take Mr. Ward's  
3 deposition in Little Rock. I had a call earlier  
4 about him coming to Washington and advised that he  
5 had a doctor's certificate that he should not travel  
6 to Washington.

7 Q That was from our committee?

8 A That was from your committee. Other than  
9 that I don't remember.

10 Q So, nobody else associated with the White  
11 House or the Clinton campaign that you know of --

12 A No.

13 Q -- other than Mr. Kendall, obviously?

14 A No, nobody.

15 Q Did you ever talk to Mr. Lindsey regarding  
16 your representation of Mr. Ward?

17 A No.

18 Q Mr. McLarty?

19 A No.

20 Q And other than the POM matter, with  
21 Mr. Hubbell?

22 A No, not anything that I can recall. Let me

1 correct that.

2 Q Okay.

3 A At the time there was discussion of  
4 settlement with the RTC, Mr. Ray talked to me and  
5 talked to Mr. Hubbell about what he thought was the  
6 effect of this litigation upon Mr. Ward in his  
7 condition and wouldn't it be better to get the thing  
8 behind the settlement, and he was talking to me  
9 because I had a lot of background and talking to  
10 Mr. Hubbell because he was his son-in-law.

11 Q Was this at a joint meeting?

12 A The three of us met. Mr. Ray asked us to  
13 come to his office.

14 Q When you say "settlement with the RTC,"  
15 this is Mr. Ward's settlement with the RTC?

16 A That's correct.

17 Q Subsequent to the removal of the suit --

18 A Which was ultimately entered into.

19 Q Based on this meeting, the settlement was  
20 ultimately entered into?

21 A I don't know if it was based on the  
22 meeting. Subsequent to the meeting, the settlement

1 was entered into.

2 Q Did you agree with the proposed settlement  
3 with the RTC? Did your counsel?

4 A I did not involve myself in the amount. I  
5 just agreed that with the stress that Seth was under  
6 and in his physical condition and with the amount of  
7 attorney fees he was running up, he would probably be  
8 a lot better off to get out of the thing.

9 Q I take it this talk occurred after  
10 Mr. Ward's accident?

11 A Oh, yes.

12 Q What was Mr. Hubbell's view of the  
13 settlement?

14 A My recollection is he said that he was  
15 distressed by Seth's condition and thought that it  
16 would be very helpful to get through with the  
17 litigation.

18 Q Did he get into the amount of the  
19 settlement or anything like that?

20 A I don't recall that he did, no. At that  
21 time I don't know that there was any amount that was  
22 on the table. It was just a proposition.

1 Q Was this a brief meeting?

2 A Very brief.

3 Q Half an hour?

4 A Probably not that long.

5 Q It was subsequent to this that the  
6 settlement was ultimately entered into with the RTC?

7 A There was a settlement entered into after  
8 that, yes.

9 Q Did you have any conversations with  
10 Mr. Hubbell about Mrs. Clinton's representation of  
11 Madison Guaranty?

12 A No.

13 Q How about with anybody else currently or  
14 formerly at the Rose Law Firm?

15 A Never.

16 Q Do you know anybody in Mrs. Clinton's staff  
17 besides Mr. Kendall? Have you had any contact with  
18 anybody else in Mrs. Clinton's staff?

19 A I have had contact with Carolyn Huber.

20 Q In what capacity and what circumstances?

21 A Well, it is really kind of silly. I have a  
22 lawyer friend in New York whose wife is a cat fancier

1 and owns cats, and she is taken with Socks. She  
2 wanted me to get in touch with Mrs. Clinton and find  
3 out if she could send a catnip pillow to Socks.

4 On the basis of that request, I called and  
5 talked to Carolyn Huber, whom I did not know, and  
6 asked her if she would pass on to the First Lady that  
7 I had a friend who wanted to give Socks a catnip  
8 pillow.

9 Q Just to round out the story, I know I am  
10 exceeding scope here, Lance. Was a pillow sent to  
11 Socks?

12 A Actually, I hand delivered it.

13 Q This was in the 1995 meeting?

14 A No. This was on the occasion when I  
15 visited with Bruce and McLarty. I handed it to  
16 Mr. McLarty and later learned that he delivered it.  
17 In fact, my friend got a nice thank you note from  
18 Socks.

19 Q Next time I'm over at the White House I  
20 will make sure I see whether Socks is indeed sleeping  
21 on that pillow.

22 You mentioned you did not know Mrs. Huber

1 before that phone call?

2 A No, I did not.

3 Q You did not know her when she was at the  
4 Rose Law Firm?

5 A No, I did not.

6 Q Other than this one contact with Ms. Huber,  
7 have you had any other subsequent contacts with her?

8 A No.

9 Q What prompted your discussion with  
10 Ms. Huber?

11 A I was calling for the First Lady and  
12 instead got Mrs. Huber. Instead of asking to speak  
13 to Mrs. Clinton, I asked her to handle it for me,  
14 Ms. Huber, and she said sure.

15 Q Was she the person who picked up the phone?

16 A No. I think somebody told me that  
17 Ms. Huber was the person to talk to to get to  
18 Mrs. Clinton, if that's my recollection.

19 Q And I take it that during the course of  
20 this conversation, that Mrs. Huber did not ask you or  
21 talk to you about Seth Ward --

22 A No.

1 Q -- or Mrs. Clinton's representation of  
2 Madison Guaranty?

3 A No, not at all.

4 Q It was restricted simply to the pillow for  
5 Socks?

6 A That's right.

7 Q Have you had any other contact with any  
8 member of Mrs. Clinton's staff?

9 A No.

10 Q Do you know who Maggie Williams is?

11 A No.

12 Q You mentioned that Mr. Kendall showed  
13 Mr. Ward some documents that it appeared to you  
14 reflected some billing records.

15 A That is what appeared to me. I did not  
16 examine the documents. I don't know what documents  
17 they were. But I do recall that he had some what  
18 looked to me to be billing records.

19 Q Of course, you would know billing records,  
20 being a private lawyer yourself?

21 A They didn't look like our billing records.  
22 But it just looked like they were time records.



1 That's what they looked like to me.

2 Q Actual time sheets or time records?

3 A I believe they were a computer printout but  
4 I'm not sure.

5 Q Do you remember what size they were  
6 approximately?

7 A No.

8 Q You said there were five or six sheets?

9 A I don't remember how many sheets.

10 Q It wasn't a bundle?

11 A No, it was not a bundle.

12 Q Did it look to you to be anything like  
13 this?

14 A I couldn't really say. No, I don't think  
15 this looks like it.

16 Q Were they approximately this size or  
17 smaller?

18 A I couldn't tell you to save my life.

19 Q I know this may be implicit in your answer  
20 to some of my earlier questions. Let me try to make  
21 it explicit. You have never had a tour of or have  
22 never been in the White House residence itself?

1 A Not to my knowledge. If I was in the White  
2 House residence on August the whatever of '95, then I  
3 was, but I did not recognize it as being a  
4 residence. There certainly was not any bedroom or  
5 anything.

6 Q It was in a room which you understood to be  
7 President Roosevelt's war room?

8 A That's what I understood.

9 Q Whether that was officially part of the  
10 residence or not, you have no idea?

11 A That's correct.

12 MR. DINH: I have nothing further.

13 EXAMINATION

14 BY MR. COLE:

15 Q Mr. Jennings, as I indicated earlier, my  
16 name is Lance Cole. I am one of the Democratic  
17 counsel to the Whitewater Committee.

18 Mr. Dinh has been very thorough in his  
19 questioning, and you have been both very complete and  
20 very clear in your answers, so I am going to try to  
21 be as brief as I can and hopefully not take a great  
22 deal more of your time.

1 I do have some questions that go back to  
2 some of the areas that Mr. Dinh has already covered  
3 with you.

4 In particular, I wanted to ask you a bit  
5 more about your recollection of what you understood  
6 from Mr. Ward about the preparation of the second  
7 letter agreement between Ward and McDougal on behalf  
8 of Madison Guaranty or Madison Financial, the  
9 documents that were dated September 24, 1985 that  
10 Mr. Dinh showed you earlier.

11 Am I correct in understanding that your  
12 recollection is that Mr. Ward told you or you  
13 understood from Mr. Ward that the second of those two  
14 letter agreements was prepared a day or two after the  
15 first agreement?

16 A Mr. Ward has told me that there were three  
17 agreements, that the first one did not correctly  
18 state the oral agreement, that a second one was  
19 drafted, and I believe that that second one left out  
20 the Holman Acres part of the agreement. Then the one  
21 that included the Holman Acres part of the agreement  
22 was actually typed and signed a couple of days later

1 than the first one, a day or two later.

2 Now, that's my recollection what Mr. Ward  
3 said, and what he was doing was trying to get on  
4 paper exactly what he and Mr. McDougal had agreed  
5 to. With the third one they finally got it, and they  
6 both put their names on it.

7 Q Was it your understanding from Mr. Ward  
8 that those were discussions between Mr. McDougal and  
9 Mr. Ward and that they or perhaps Mr. McDougal's  
10 secretary prepared the letter agreements? Do you  
11 have any understanding as to who prepared them?

12 A I understood from Mr. Ward that the first  
13 one was prepared by Mr. McDougal's secretary.

14 Q So that would mean that Mr. McDougal either  
15 dictated it or prepared a draft and his secretary  
16 typed it?

17 A Mr. Ward, I believe, dictated all of the  
18 agreements. That's my understanding.

19 Q So, in your discussions with Mr. Ward, it  
20 was your understanding that neither he nor  
21 Mr. McDougal obtained any assistance from lawyers in  
22 preparing these letter agreements?

1       A    That was my very clear understanding, that  
2 the preparation of the agreements, the language of  
3 the agreements was, as far as Mr. Ward knew, not the  
4 product of any lawyer.

5       Q    And Mr. Ward was familiar with the  
6 preparation of all three, so if lawyers were  
7 involved, he would have been aware of that?

8       A    Absolutely.

9       Q    And I think this is clear, but Mr. Ward  
10 never indicated to you that Mr. Hubbell assisted him  
11 in the preparation of those letter agreements?

12       A    He indicated to me that Mr. Hubbell's  
13 secretary typed I think just one of the agreements.

14       Q    And do you recall which one that was?

15       A    I think it was the third one or the one  
16 that included the Holman Acres.

17       Q    And to be as clear as we can, recognizing  
18 that this was many years ago, all three agreements  
19 were prepared over the space of a few days around  
20 September 24th?

21       A    That's correct.

22       Q    That's your best understanding?

1       A    Yes.

2       Q    And Mr. Ward was quite clear on that point?

3       A    Yes.

4       Q    So, the third agreement was not prepared  
5 weeks or months later and then backdated?

6       A    Absolutely not.

7       Q    And other than the involvement of  
8 Mr. Hubbell's secretary, did Mr. Ward indicate that  
9 anyone else at the Rose Law Firm, and in particular  
10 Mrs. Clinton, played any role in the preparation of  
11 these agreements?

12       A    He did not.

13       Q    In fact, it was clear to you from your  
14 discussions with Mr. Ward that that had not been the  
15 case?

16       A    Absolutely clear.

17       Q    Turning then to the later option agreement,  
18 the document from May 1986 that Mr. Dinh showed you.  
19 Can you recall what Mr. Ward told you about the  
20 preparation of that document?

21       A    I don't remember him ever telling me  
22 anything about it. The document was there, it was



1 signed, and I don't recall ever having any interest  
2 in the preparation of it. I don't recall him telling  
3 me anything about who prepared it.

4 Q But it was your understanding, I believe  
5 you testified, that that option agreement was to  
6 cover the same property that was referenced in the  
7 September 24th letters, the Holman Acres property?

8 A That was certainly my understanding and the  
9 difference in a description of something I hadn't  
10 even noticed until today.

11 Q I apologize if you answered this question,  
12 but obviously we had a good deal of back and forth on  
13 the preparation of that document. It would help me  
14 if you could explain if you have an understanding  
15 what the purpose of the May option agreement was, if  
16 it covered the same property that was referenced in  
17 the September agreement. Was it because the  
18 September agreement was about to expire that a new  
19 option agreement was entered?

20 A The September agreement provided that that  
21 property would belong to Seth Ward and was not  
22 subject to the option that involved all of IDC.

---

1 Mr. Ward has told me that he thought that that  
2 property would be very, very valuable because at that  
3 time there was talk about a south bypass interstate  
4 that would go either across or by that property and  
5 that it would be an ideal spot for commercial  
6 development.

7 Apparently, according to Mr. Ward,  
8 Mr. McDougal agreed with him and wanted an option to  
9 buy the property.

10 Q That's very helpful. So if I'm  
11 understanding your testimony, the property that was  
12 the subject of the May 1986 option had essentially  
13 been carved out in September of 1985 and Madison had  
14 no option on that particular parcel under the  
15 September 1985 agreement?

16 A That is correct.

17 Q So, this essentially was a new arrangement  
18 between Mr. Ward and Mr. McDougal --

19 A That's exactly correct.

20 Q -- to provide Madison Guaranty or its  
21 affiliate an option on that property.

22 So, it was Mr. Ward's position and



1 understanding that he was intended to have free and  
2 clear title or ownership of that parcel without any  
3 option being granted to Madison Guaranty up until  
4 May, when he provided an option?

5 A That's correct. And he did, in fact,  
6 mortgage that property as security for the \$400,000  
7 loan which was subsequently reduced to \$300,000.

8 MR. DINH: Just to be clear, when you say  
9 "free and clear," you mean free and clear of the  
10 option, not of encumbrances, because there was that  
11 mortgage on the original note?

12 MR. COLE: That's what I exactly mean.

13 BY MR. COLE:

14 Q I won't recover what you already testified  
15 to, because I believe you testified very clearly that  
16 it was Mr. Ward's position and your understanding  
17 based on your discussions with Mr. Ward that the  
18 \$300,000 loan had nothing to do with the prior  
19 commission arrangement between Mr. McDougal and  
20 Mr. Ward?

21 A The \$400,000 that had been reduced to  
22 300,000 by a 100,000 payment had nothing to do with

---

1 commissions, except that Mr. Ward felt that he was  
2 entitled to cash money, and they said they didn't  
3 have it but they would lend him some money.

4 In that sense, the fact they hadn't paid  
5 him the commission was the reason he was borrowing  
6 the \$400,000. Otherwise, it had no connection  
7 whatsoever.

8 Q And Mr. Dinh asked you whether the result  
9 of all of the arrangements between Mr. Ward and  
10 Madison Guaranty was that he obtained what Mr. Dinh  
11 referred to as a windfall in getting both the  
12 property and the funds that he felt he was owed for  
13 the commissions. As I understood your testimony,  
14 what Mr. Ward ultimately got was forgiveness of the  
15 loan and the property. So, he didn't actually get  
16 the property and \$300,000 cash; is that correct?

17 A He deeded the property to Madison in  
18 repayment of the loan that was now down to \$300,000.  
19 The option to purchase the property was never  
20 exercised. But since it wasn't exercised, since he  
21 used it as security, he deeded it to Madison.

22 Q So basically the only thing at the end of

1 the various transactions, he got the \$300,000 and  
2 that was all that he got?

3 A He got more than that. He got 391,000, as  
4 I recall, which covered the note 300 and then he got  
5 another 91, some of which was interest and some of  
6 which was attorney fees and some of which was because  
7 we proved that the commissions due him were in excess  
8 of 300,000.

9 Q That was the money that essentially he  
10 claimed he was owed for the commissions?

11 A That's right. Of course, Mr. Latham  
12 testified unequivocally that they owed him at least  
13 \$300,000 in commissions. It is in the transcript and  
14 is perfectly clear. The main issue in the lawsuit as  
15 I saw it was how much, not whether or not Mr. Ward  
16 was entitled to commissions but how much was he  
17 entitled to.

18 Q That was because you had the documents that  
19 established what the arrangement was between Mr. Ward  
20 and Madison Guaranty for payment of commissions?

21 A Right. If there was anything in the nature  
22 of a windfall, it was McDougal's agreement in the

1 first instance to let Mr. Ward have title to Holman  
2 Acres.

3 Q That's what I was trying to get to, but you  
4 were much more clear in your answer than I was in my  
5 question. With respect to the meeting in 1995 with  
6 Mrs. Clinton and Mr. Kendall that you testified about  
7 in which you, as I understand it, reviewed for them  
8 the information that you had compiled regarding  
9 Mrs. Clinton's legal work and legal abilities and  
10 experience, was there any review at that meeting of  
11 bills or time records relating to Madison Guaranty  
12 Savings & Loan?

13 A Oh, no, absolutely not.

14 Q Was there any discussion of her legal work  
15 for Madison Guaranty Savings & Loan?

16 A Not at all. We discussed matters that I  
17 had personal knowledge of her being in court. That  
18 was the sole purpose of that part of it, plus people  
19 I had talked to that also testified that considered  
20 her a good lawyer.

21 Q I take it from that, then, sir, that there  
22 was also no discussion of the Ward v. Madison

1 litigation --

2 A Absolutely none.

3 Q -- or the IDC purchase transaction?

4 A None at all.

5 Q Was there any discussion at that meeting of  
6 a report that had been prepared by the Inspector  
7 General of the Resolution Trust Corporation  
8 pertaining to the Rose Law Firm's legal work for  
9 Madison Guaranty Savings & Loan?

10 A Discussion with whom?

11 Q With Mrs. Clinton and Mr. Kendall at that  
12 meeting.

13 A No.

14 Q Do you think that is something you would  
15 have recalled if that had been discussed?

16 A I'm sure I would.

17 Q You are certain that did not take place?

18 A I know it was not discussed. It was not.

19 Q Turning, then, to the meeting in the fall  
20 of 1995 at your offices in Little Rock with  
21 Mr. Kendall and Mr. Ward when Mr. Kendall showed  
22 Mr. Ward time records, do you recall whether the

1 documents that Mr. Kendall reviewed with Mr. Ward  
2 were bills that a law firm would send a client or, on  
3 the other hand, internal law firm billing record time  
4 sheets?

5 A I have no idea.

6 Q It could have been either one?

7 A It could have been either one, that's  
8 right.

9 Q But you do believe that the records related  
10 to Mrs. Clinton's legal work or the Rose Law Firm's  
11 legal work?

12 A It related to the Rose Law Firm's legal  
13 work is my recollection. Now, whether it was  
14 Mrs. Clinton or somebody else, I had no idea.

15 Q That was going to be my next question,  
16 whether you can recall whether the documents that  
17 Mr. Kendall reviewed with Mr. Ward had any specific  
18 information about Mrs. Clinton.

19 A I couldn't tell you. I do not know.

20 Q Do you remember whether the materials that  
21 Mr. Kendall and Mr. Ward reviewed related only to the  
22 Rose firm's work for Madison Guaranty, or did it



1 relate to other clients as well?

2 A I have no idea.

3 Q And I think Mr. Dinh has exhausted your  
4 recollection on this. You don't remember anything  
5 more about what the records that they reviewed looked  
6 like or the size of the documents other than Mr. Dinh  
7 showed you a set of documents, and I don't want to  
8 put words in your mouth, but I think you said they  
9 don't appear to be the same records that Mr. Kendall  
10 showed Mr. Ward.

11 A That's the best of my recollection. They  
12 do not appear to be the same.

13 MR. DINH: For the record, I just realized  
14 I did not note for the record what these documents  
15 were. They are documents starting with DKS N 028928.

16 BY MR. COLE:

17 Q Just for the record, what Mr. Dinh showed  
18 you and what I am now putting before you is a stack  
19 of, I guess it is 11-by-17 computer printouts that  
20 appears to be about an inch and a half, 2 inches  
21 thick, and it has a series of computer entries.  
22 Between the sheets of computer paper are law firm

1 bills on 8-1/2 by 11 paper. What is it about these  
2 documents, Mr. Jennings, that make you believe they  
3 are not the same documents? Is it the size or the  
4 volume?

5 A I think that it is primarily the  
6 legibility. I glanced at the documents, and they  
7 were not, to me, very clearly legible.

8 Q The documents that Mr. Kendall had?

9 A Correct.

10 Q In other words, they may have been  
11 photocopies of documents that had been photocopied a  
12 number of times and so the clarity was --

13 A It could well have been something of that  
14 nature.

15 Q In fact, the documents that we have are  
16 copies that have been made on a color copier,  
17 represented to us have been made on a color copier.  
18 They are what I would call first generation copies.  
19 So they are fairly clear. Your recollection is the  
20 documents you looked at were not this clear in terms  
21 of the legibility of the documents?

22 A That's my recollection.



1 MR. COLE: As I said, I think we have more  
2 than exhausted your recollection on this. I don't  
3 have anything further.

4 MR. DINH: I just have one quick or two  
5 quick questions.

6 EXAMINATION

7 BY MR. DINH:

8 Q Do you happen to know the name of  
9 Mr. Hubbell's secretary that Mr. Ward told you typed  
10 out the third agreement?

11 A No, I don't.

12 Q You know it was his secretary at the Rose  
13 Law Firm?

14 A According to Mr. Ward, yes.

15 Q I have one question and I think Mr. Cole  
16 touched on this before, and you have testified with  
17 respect to the "windfall" that Mr. McDougal gave  
18 Mr. Ward in the original agreement. Do you know why  
19 Holman Acres in particular was carved out?

20 A Because Mr. Ward thought it was the most  
21 valuable property in the whole deal.

22 Q At that time did he have the information

1 regarding the proposed bypass interstate?

2 A I think nobody had any information but a  
3 rumor.

4 Q A rumor at that time. It was that  
5 information or whatever, rumor, that he had before  
6 the formulation of the September 24, 1985?

7 A Yes.

8 Q It wasn't something he came by afterwards?

9 A No.

10 Q There was a specific reason he selected  
11 that parcel out in particular?

12 A That's correct.

13 Q Just so I can get all the loops tied up.  
14 In your August 10, 1995 meeting with Mrs. Clinton  
15 where you testified earlier you mentioned five  
16 matters that you had come in contact with  
17 Mrs. Clinton, I take it none of these matters  
18 involved Madison Guaranty?

19 A No.

20 Q And none involved Seth Ward?

21 A No.

22 MR. DINH: I have nothing further.

1 THE WITNESS: May I read something into the  
2 record?

3 MR. DINH: Yes. This is from the  
4 transcript of the trial?

5 THE WITNESS: Yes. It is page S 32921.

6 MR. DINH: At page 110 of the transcript.

7 THE WITNESS: Yes, and 232 of the record on  
8 appeal.

9 "Let me ask you this, Mr. Latham." This  
10 is cross-examination by me. "I believe you already  
11 testified that you don't think that Madison could  
12 ever have gotten the deal on this property except  
13 through Mr. Ward; is that correct?"

14 "Answer: I believe that's true.

15 "Question: And is it true that Madison  
16 has sold properties for a total according to our  
17 information of 3,419,600 plus 372,000 which totals,  
18 well, it totals 3,791,600, I guess, close to 3.8  
19 million?

20 "Answer: I'm going to have to rely on the  
21 records on that. I don't remember the dollars  
22 involved.

1 "Question: Do you have any reason to  
2 doubt those figures that were furnished to us by  
3 Madison?

4 "Answer: I have no reason to dispute  
5 those, no.

6 "Question: A pretty good deal for  
7 Madison?

8 "Answer: It looks like it."

9 You think that something I did won the  
10 lawsuit? Mr. Latham laid it all out for the jury.

11 BY MR. DINH:

12 Q As you testified earlier, some of this \$3.8  
13 million was not collected, ultimately leading to the  
14 loss to Madison?

15 A That's my understanding.

16 MR. DINH: Thank you very much.

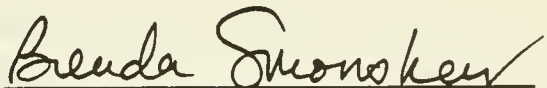
17 MR. COLE: Thank you both.

18 (Whereupon, at 4:20 p.m., the deposition  
19 was concluded.)  
20  
21  
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

DEPONENT: ALSTON JENNINGS, SR.

ERRATA

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
15	15	"for"	"from"	
48	10	"\$1750"	"1,750,000"	That was the correct cost of the property.
66	3	"appellates"	"appellants"	
81	2	"father"	"brother"	
98	6	"in the fall of '95"		This is an accurate transcription, but my memory was faulty.
103	17	"Yes, it was before Christmas"		This is an accurate transcription, but my memory was faulty, and I promptly advised Mr. Viet D. Dinh and the Committee that this meeting actually took place in 1996.
106	17		Should read " <u>not</u> as close"	



**DEPOSITION OF JANE C. SHERBURNE  
IN RE: S. RES. 120**

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**TUESDAY, FEBRUARY 6, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of JANE C. SHERBURNE, called for examination pursuant to notice of deposition, at 4:50 p.m. in Room 534 of the Dirksen Senate Office Building, before DAVID L. HOFFMAN, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.  
Majority Chief Counsel  
DOUGLAS R. NAPPI, Esq.  
Majority Counsel  
RICHARD BEN-VENISTE, Esq.  
Minority Special Counsel  
GLENN F. IVEY, Esq.  
Minority Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

ROGER M. WITTEN, Esq.  
GAIL C. BERNSTEIN, Esq.  
Wilmer, Cutler & Pickering  
2445 M. Street, NW  
Washington, DC 20037-1420  
On behalf of the Deponent.

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## P R O C E E D I N G S

(4:50 p.m.)

Whereupon,

JANE C. SHERBURNE

was called as a witness herein, and having been first duly sworn, was examined and testified as follows:

MR. WITTEN: I don't want to start out contentious but it's now ten to 5:00. It's late in the day. We're tired. Our witness is busy. You shouldn't anticipate that we'll be willing to stay forever. You ought to prioritize your questions.

MR. GIUFFRA: If you'd like, we can do the deposition tomorrow or split it up.

MR. WITTEN: We're not going to come back twice.

I'll consult with my client about when she wants to do it.

How long do you expect to be?

MR. GIUFFRA: I have no idea. I don't know what Ms. Sherburne knows. By our count, she was before the Grand Jury for four hours.

MR. WITTEN: What time would you be

4

prepared to do it tomorrow if that turns out to be her preference?

MR. GIUFFRA: Let's go off the record for a second.

(Discussion off the record.)

BY MR. GIUFFRA:

Q Ms. Sherburne, would you please state your name for the record?

A My name is Jane Sherburne.

Q Would you spell your last name, please?

A S-H-E-R-B-U-R-N-E.

Q This is a deposition that's being conducted pursuant to Senate Resolution 120. This Resolution establishes a special committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation and other related matters.

As you know, my name is Robert Giuffra. I'm chief counsel of the Senate Banking Committee.

To my left is Doug Nappi who is a counsel to the Banking Committee.

And further down is Mr. Ben-Veniste who is

1 minority special counsel.

2 This deposition is in advance of public  
3 hearings that will be held on Thursday at which  
4 you'll be asked to testify.

5 Are you familiar with the procedure for  
6 the conduct of depositions by the Committee?

7 A Yes.

8 Q You don't need to have me go through it  
9 now?

10 MR. WITTEN: No.

11 BY MR. GIUFFRA:

12 Q I see you've chosen to be represented by  
13 counsel.

14 If counsel would state his appearance for  
15 the record.

16 MR. WITTEN: My name is Roger Witten. I'm  
17 with Wilmer, Cutler & Pickering. I'm with Gail  
18 Bernstein, also with Wilmer, Cutler & Pickering.

19 BY MR. GIUFFRA:

20 Q Ms. Sherburne, what is your present  
21 position?

22 A Special counsel to the President.

1 Q Did you speak with anyone other than your  
2 counsel prior to this deposition on the substance of  
3 your testimony?

4 A The substance of my testimony here in this  
5 deposition?

6 Q The substance of it, yes?

7 A No.

8 Q Have you testified about these matters  
9 before?

10 A What matters?

11 Q This deposition is primarily focused in  
12 the circumstances surrounding the discovery of  
13 certain billing records at the White House.

14 MR. WITTEN: She testified in the Grand  
15 Jury. You know that. And she's not going to tell  
16 you any more about it. Let's move on.

17 BY MR. GIUFFRA:

18 Q Let me focus your attention to January 4,  
19 1996. Did there come a time on January 4, 1996 when  
20 you learned of the discovery of certain documents by  
21 Caroline Huber of the White House staff.

22 A Yes.



1 Q When did you learn of the discovery and  
2 what were the documents you learned of the discovery  
3 of on January 4, 1996?

4 A They were Rose Law Firm billing records  
5 reflecting the attorney detail for work that had been  
6 performed by Rose Law Firm lawyers for their client,  
7 Madison.

8 Q Who informed you of the discovery of these  
9 billing records?

10 A David Kendall.

11 Q Approximately what time did Mr. Kendall  
12 advise you of the discovery of these billing records?

13 A Your question assumes that he knew what  
14 they were at the time he advised me of them.

15 He called me about 4:00 o'clock, I  
16 believe, on January 4th, and said that Caroline Huber  
17 had located documents that he believed were billing  
18 records related to Madison worked performed by Rose  
19 Law Firm lawyers.

20 Q Did he say anything further to you about  
21 what Ms. Huber had told him about these records?

22 A No, not that I remember.

---

1 Q And did you contact anyone at the  
2 conclusion of your 4:00 o'clock phone call with Mr.  
3 Kendall?

4 A What do you mean contact anyone? About  
5 what?

6 Q After you got the call from Mr. Kendall,  
7 did you call anyone and say, well, David Kendall just  
8 called and said that Caroline Huber found some  
9 documents at the White House?

10 A No, I did not do that.

11 Q What did you do after the phone call with  
12 Mr. Kendall?

13 A I can't remember.

14 Q Did there come a time when you spoke to  
15 Ms. Huber on January 4, 1996?

16 A Yes.

17 Q When was that?

18 A I believe it was around 5:00 o'clock.

19 Q Was anyone present when you spoke to Ms.  
20 Huber?

21 A Ms. Huber, as well as David Kendall and  
22 Ms. Huber's lawyer, Hank Schuelke.

1 Q Where did you meet with Ms. Huber?

2 A In her office in the East Wing of the  
3 White House.

4 Q Between 4:00 and 5:00 o'clock, you had no  
5 recollection of having any --

6 Strike that.

7 Do you have any recollection between 4:00  
8 and 5:00 o'clock of having any contacts with anyone  
9 having anything to do with Rose billing records?

10 A I had no contact with anyone between 4:00  
11 and 5:00 o'clock related to anything to do with the  
12 Rose billing records.

13 Q Do you recall whether at the conversation  
14 you had at 4:00 o'clock with Mr. Kendall, that he  
15 advised you that there would be a meeting at 5:00  
16 o'clock in Ms. Huber's office?

17 A No. He asked me if I would be available  
18 to go over to Ms. Huber's office with him and Mr.  
19 Schuelke at 4:45, and he asked me if I would make  
20 arrangements to wave them in.

21 Q Your testimony is you arrived at Ms.  
22 Huber's office at approximately 5:00 o'clock?

---

10

1 A I believe it was about 5:00 o'clock.

2 Q What do you recall about any conversations  
3 that occurred at 5:00 o'clock when you arrived at Ms.  
4 Huber's office?

5 What happened?

6 A We got to Ms. Huber's office. She had the  
7 billing records in her office. She showed us where  
8 they had been.

9 Q Where were the billing records when you  
10 arrived at the office? Were they out on a table, or  
11 were they in the box where she found them originally?

12 A I'm not sure. I think she had them on her  
13 desk, or she may have been holding them. I think she  
14 had them on her desk. I know at one point she put  
15 them in the box to show us how they had been placed  
16 when she found them. But I don't believe they were  
17 in the box when we walked in the room.

18 Q And what did Ms. Huber say to you about  
19 the discovery of these billing records during the  
20 conversation in her office on January 4, 1996, at  
21 approximately 5:00 o'clock?

22 A What did she say at 5:00 o'clock?

1 As you may know, we were together for a  
2 long period of time.

3 Q Maybe the most efficient way is why don't  
4 you just tell us, in your own words, what happened?

5 MR. BEN-VENISTE: She was doing that and  
6 you interrupted her.

7 BY MR. GIUFFRA:

8 Q From 5:00 o'clock on on January 4, 1996.

9 A Well, Ms. Huber showed us the billing  
10 records. We stayed in her office for a few minutes.  
11 It was not a space conducive to easily looking at the  
12 records, so we went to an office next door where Ms.  
13 Huber sat down behind a desk, spread the billing  
14 records open in front of her, and Kendall, Schuelke  
15 and I stood around behind her as she flipped through  
16 the pages of the billing records, one by one.

17 We asked her questions about where they  
18 had been.

19 She indicated that they had been in this  
20 box that she had under a table in her office. That  
21 she had brought these boxes, there were a number of  
22 boxes, that she'd brought them over from the

1 residence at some prior time. She was confused about  
2 the time.

3 First she said three months. Later she  
4 said ten months. Then she said she wasn't sure. It  
5 could have been more recently, it could have been  
6 longer.

7 She was very uncertain about the time.

8 She said that the boxes had been placed  
9 under a table in her office when she brought them  
10 over, and that as part of her New Year's resolution,  
11 she had decided to remove the table from her office,  
12 thus exposing the boxes and that she would then start  
13 dealing with these things in the boxes that had  
14 apparently been sitting there waiting for her to pay  
15 attention to for quite some time.

16 And that it was at that point that she  
17 picked up these records, looked through them more  
18 carefully than she had when she had first seen them  
19 in the residence, and realized that they related to  
20 Madison bills from the '85-'86 period.

21 She recognized that as a time period that  
22 was important to the various inquiries about

1 Whitewater.

2 So as soon as she realized that, she said  
3 she picked up the phone and called David Kendall.

4 Then we asked her questions.

5 Q Did she indicate that she had first --

6 MR. BEN-VENISTE: Excuse me. As a  
7 narrative at this point, I'd like your indulgence. I  
8 have to make a phone call. It may take a few  
9 minutes. I'm sorry.

10 (Recess.)

11 (Readback.)

12 BY MR. GIUFFRA:

13 Q Did Ms. Huber indicate that she discovered  
14 the billing records in the box in her office on  
15 January 4, 1996?

16 A I'm hesitating of your use of the word  
17 "discover." She discovered them in the residence at  
18 some prior point. And she remembered that she had  
19 brought them over when she saw them in the box on the  
20 4th.

21 Q She indicated that she saw the documents  
22 in the box on the 4th?

1 A Right.

2 Q Did she indicate whether it was in the  
3 afternoon, the morning?

4 A No.

5 Q Do you have any idea when she first called  
6 Mr. Kendall?

7 A No.

8 Q Why don't you just continue with the  
9 narrative then.

10 A Let's see, where was I.

11 We'd gone into the next room, looking  
12 through, and I was telling you what she told us about  
13 the records.

14 She said that she had found them at some  
15 point. First she said a few months ago. Then she  
16 said three months ago. Then she said ten months ago.

17 At some point, I said, is it three or is  
18 it ten?

19 And she said, well, I don't know. It's  
20 somewhere three or ten months ago. She was very  
21 confused, very upset, very flustered, trembling.

22 Then we said, well, where did you find



1 them in the residence.

2 She said that they were in the third  
3 floor. I don't know that she used the term "book  
4 room" herself. She may have. But she described the  
5 room that has been identified as the Book Room.

6 She said she had found them in there.

7 We asked her where.

8 She said they were just lying around.

9 We asked her where were they lying around.

10 She couldn't remember. First she said  
11 they were on a shelf. Then she said they were on a  
12 table. She was sort of, you know, she was not clear  
13 about where they were.

14 Then she said, first she said, when she  
15 looked at them, when she found them in the residence,  
16 that she found them and just threw them in a box of  
17 things that she was collecting in that room to bring  
18 back over to her East Wing office to sort through,  
19 and determine what to do with.

20 And then she said, and she said she hadn't  
21 looked at them. Then at some point she said she knew  
22 they were Madison records or she knew they were Rose

---

1 Law Firm records.

2 And so we asked her, and I don't remember  
3 who exactly was doing the questions, we were all  
4 talking to her.

5 Q Did she indicate when she knew they were  
6 Rose Law Firm records?

7 A Well, I'm about to get to that.

8 First she said she didn't look at them,  
9 she just threw them in the box.

10 Then she said something about them knowing  
11 at the time that they were Rose Law Firm records.

12 So we asked her, wait a minute, I thought  
13 you didn't look at them. You know, did you look at  
14 them then?

15 And she said, well, having been the office  
16 manager of the Rose Law Firm, I know what Rose Law  
17 Firm records look like, so I looked at them long  
18 enough to identify them as Rose Law Firm records.  
19 And I threw them in the box. But she said I didn't  
20 look at them long enough to realize that they were  
21 Madison billing records from '85 and '86.

22 So this conversation is occurring, you

1 know, between the time we got there and the time we  
2 moved into the next room. And had started going  
3 through the records.

4 She's going through them page by page.

5 Q Did she say anything about the records as  
6 she was going through them page by page?

7 A She pointed out the red handwriting and  
8 identified that as Foster's handwriting. She  
9 identified, she observed that everything about the  
10 records was a copy except the original handwriting of  
11 Vince Foster.

12 And she observed that some of the  
13 handwriting was Mrs. Clinton's that appeared to have  
14 been placed there at the time the bills were prepared  
15 in '85 or '86.

16 She may have identified other handwriting  
17 on the bills but I don't remember. There may have  
18 been a bookkeeper or somebody like that whose  
19 handwriting she recognized that again looked like it  
20 would have been placed on there in '85 or '86.

21 We looked at the materials for awhile.  
22 Then I suggested to Kendall and Schuelke that we step

---

1 out in the hallway for a minute and talk about what  
2 to do.

3 I talked about whether we should copy the  
4 records, or whether there may be some interest in the  
5 records that should require us to do something with  
6 them before we copied them.

7 We discussed that for awhile, and then  
8 concluded that because the records were under  
9 subpoena by two different entities, maybe three, I  
10 think the RTC had an outstanding subpoena as well,  
11 and because they contained new information that  
12 needed to be examined, that it was important to get  
13 the copies made.

14 We talked about who should produce the  
15 records. Whether Schuelke should, whether the White  
16 House should, or whether Kendall should. We talked  
17 about that for, you know, ten minutes or so, and  
18 concluded that Kendall would produce the records.

19 Q You mentioned there was discussion of  
20 doing something prior to copying the records. Do you  
21 recall precisely what that something would be?

22 A Well, I asked the question whether these

1 records were records that there may be some interest  
2 in fingerprinting at some point, and should we, you  
3 know, reserve on copying or handling them. And that  
4 was the question that we discussed and then decided  
5 that the competing demands for these documents, as  
6 well as the obligation to the clients to analyze  
7 them, were compelling and we ought to get them copied  
8 promptly and turn them over as quickly as possible to  
9 the Independent Counsel.

10 Q Was there any discussion of notifying the  
11 Independent Counsel and asking the Independent  
12 Counsel whether steps should be taken to preserve the  
13 records with a minimum of fingerprints on them,  
14 smudging and fingerprints?

15 A No.

16 Q Okay, go ahead with the narrative.

17 A I can't remember where I left off.

18 Q You were discussing the copying of the  
19 records, and you decided that the countervailing  
20 considerations required --

21 MR. WITTEN: That's not where she left  
22 off. That's what she answered in response to your

---

1 question.

2 THE WITNESS: I think I was trying to  
3 remember what else we discussed.

4 Oh, we discussed whether we could get them  
5 copied fast enough that night to turn them over to at  
6 least the Independent Counsel that night.

7 I believe you got a full-sized set of  
8 these documents as we began the copying process,  
9 which you know happened in a different segment of  
10 this evening. It became clear that we couldn't get  
11 that whole process completed that night, but when we  
12 were in the hallway there, we talked about that.

13 And we talked about the confusion in  
14 Caroline's story, and that we agreed that this was  
15 not the time to press her on these facts, and try and  
16 understand just what her recollection was.

17 BY MR. GIUFFRA:

18 Q Did anyone other than Ms. Huber handle the  
19 billing records on January 4, 1996?

20 MR. WITTEN: In Jane's presence?

21 BY MR. GIUFFRA:

22 Q In Jane's presence?



1 A In my presence? Well, I certainly did  
2 because I assisted in the copying, and I don't know  
3 if Kendall or Schuelke, at one time or another, would  
4 have handled a page here or there as well.

5 Q Approximately how long did the meeting in  
6 Ms. Huber's office last?

7 A In her office, are you including that in  
8 the office next door?

9 Q Yes.

10 A I would say it could have been 45 minutes.  
11 I'm including in that also the hallway conversation  
12 that was outside of her presence.

13 Q You report to the counsel to the  
14 President, correct?

15 A I have a reporting relationship with the  
16 Chief of Staff and the counsel to the President.

17 Q Did you notify anyone at the White House  
18 of the discovery of these billing records on  
19 January 4, 1996?

20 A Yes.

21 Q Who did you notify of the discovery of  
22 these billing records?

1 A What was the question?

2 MR. WITTEN: Who in the White House did  
3 you notify on the 4th?

4 THE WITNESS: Who did I notify on the 4th?  
5 I notified members of my staff, and I also notified  
6 Harold Ickes.

7 BY MR. GIUFFRA:

8 Q Who on your staff did you notify?

9 A I notified Mark Fabiani, Ira Fishman, and  
10 David Fein.

11 Q Did you instruct them to notify anyone of  
12 the discovery of these records?

13 MR. WITTEN: You two had an extended  
14 discussion yesterday about the scope of this  
15 examination and privilege. Our view basically is  
16 that the subject of Jane's conversations with her  
17 staff are privileged.

18 I don't necessarily want to have a fight  
19 about privilege, and I think she can characterize  
20 these discussions without getting into the actual  
21 substance of them in a way that should satisfy you  
22 and avoid such a fight.



1           Maybe the next question ought to be,  
2 please characterize the subject matter of this  
3 notification. And maybe if you're satisfied with  
4 that answer, we don't have to discuss this anymore.

5           MR. GIUFFRA: Why don't you read back the  
6 pending question?

7           (Readback.)

8           THE WITNESS: I'm prepared to answer that  
9 question because I don't think it gets into  
10 privileged areas.

11          The answer is no.

12          BY MR. GIUFFRA:

13          Q   Do you know if they notified anyone of the  
14 discovery of these records?

15          A   No.

16          Q   Why did you contact Mr. Ickes about the  
17 discovery of these records?

18          A   Why?

19          MR. WITTEN: Presumably to let him know.

20          THE WITNESS: I thought I already said  
21 that. I contacted him to notify him that the records  
22 had been discovered.

1          BY MR. GIUFFRA:

2          Q   Why did you specifically notify Mr. Ickes,  
3 as opposed to, for example, Mr. Panetta or someone  
4 else?

5          MR. WITTEN: The question is limited to  
6 January 4th, so the implication you're drawing here  
7 may not be appropriate, given the limitation of the  
8 question you asked her. But she can try to answer  
9 the question.

10          THE WITNESS: If the question is?

11          BY MR. GIUFFRA:

12          Q   Did you notify Mr. Panetta?

13          MR. WITTEN: Ever?

14          BY MR. GIUFFRA:

15          Q   On January 4th?

16          A   No.

17          Q   Did you notify Mr. Quinn on January 4th?

18          A   No.

19          Q   Do you know whether anyone on your staff  
20 notified Mr. Quinn?

21          A   I don't know.

22          Q   You presume that they probably did?

1 A That they did? I don't know.

2 MR. WITTEN: Guess.

3 BY MR. GIUFFRA:

4 Q As you sit here today, do you know why you  
5 notified Mr. Ickes? Does he have some special role  
6 to play?

7 MR. BEN-VENISTE: What is the relevance of  
8 this? The records have been found and they've been  
9 copied. You're getting into the mental process of  
10 counsel.

11 If it's important to know it, that's one  
12 thing, but if it's just curiosity, I don't think it's  
13 appropriate to inquire.

14 MR. GIUFFRA: Your objection is noted.

15 BY MR. GIUFFRA:

16 Q Why did you contact Mr. Ickes and notify  
17 him of the discovery of the records?

18 A I contacted Mr. Ickes to notify him of the  
19 discovery of the records. The reason I contacted him  
20 was to notify him of the discovery of the records.

21 Q Was there any particular reason that of  
22 various people in White House, outside of your own

1 staff, you chose to notify Mr. Ickes?

2 MR. WITTEN: I'm not a Whitewater  
3 voluptuary, so I don't appreciate the many wonders of  
4 this case, but I fail to see what this question has  
5 to do with anything at all that could possibly be of  
6 interest to the Congress of the United States.

7 MR. GIUFFRA: I think there's certainly  
8 evidence in the record indicating notifying Mr. Ickes  
9 about these records is a relevant matter.

10 THE WITNESS: What?

11 MR. BEN-VENISTE: Secret evidence or  
12 public evidence?

13 MR. GIUFFRA: One example, there's a  
14 memorandum from Mr. Ickes to the First Lady, dated  
15 March 1, 1994, discussing the Rose Law Firm and  
16 possible conflicts it may have.

17 There also are notes that the Committee  
18 has requested from the White House and an interview  
19 of the White House counsel with Mr. Ickes in which  
20 the Rose Law Firm comes up.

21 Therefore the reason why Ms. Sherburne  
22 contacted Mr. Ickes with regard to discovery of these

1 records is relevant.

2 MR. WITTEN: I'm not bowled over here.

3 MR. GIUFFRA: If you instruct her not to  
4 answer the question, that's fine.

5 MR. WITTEN: I'm not going to instruct  
6 her.

7 MR. GIUFFRA: We'll deal with it. You  
8 know, everyone has --

9 MR. WITTEN: I think she's answered the  
10 question the best she can, and I suggest you move on.

11 BY MR. GIUFFRA:

12 Q You don't report to Mr. Ickes?

13 A Yes, I do. My reporting relationship with  
14 the Office of the Chief of Staff is to Mr. Ickes.

15 MR. WITTEN: Let's move along.

16 BY MR. GIUFFRA:

17 Q Does Mr. Ickes have some special  
18 responsibility with regard to Whitewater at the White  
19 House?

20 MR. WITTEN: You know, Bob, it is now  
21 February 6th, 1996. You guys have been investigating  
22 Whitewater for a long time, and you must know the

1 answer to the question, what are Mr. Ickes'  
2 responsibilities and it's 5:30.

3 Can't we get to the substance of this?

4 BY MR. GIUFFRA:

5 Q Can you answer the question?

6 A What was the question?

7 Q Does Mr. Ickes have some special  
8 responsibility at the White House with regard to  
9 Whitewater matters?

10 A I report to him, and I have special  
11 responsibility with regard to Whitewater matters.

12 Q So is he the person in the Chief of  
13 Staff's office with responsibility for Whitewater  
14 matters?

15 It's a simple question. Yes or no?

16 MR. WITTEN: I wasn't gasping at its  
17 simplicity, I was gasping at its stupidity. On  
18 February 6, 1996, you're asking this witness at 5:30  
19 at night about Mr. Ickes' responsibilities after  
20 you've been looking into this matter for eight  
21 months.

22 MR. BEN-VENISTE: Couldn't we try to focus

1 on what actually happened?

2 MR. GIUFFRA: I think if counsel would  
3 stop trying to obstruct the deposition, we would not  
4 have a problem.

5 Also comments like the stupidity of the  
6 question certainly don't further the fact-finding  
7 process.

8 MR. BEN-VENISTE: I don't think that  
9 characterization is that helpful. I think there's a  
10 level of frustration here, Bob, and in terms of the  
11 time and the time people were kept waiting, and there  
12 isn't much more to be said about that. We're trying  
13 to do the best we can.

14 May I simply suggest that we try to get to  
15 the factual matters that are involved, and get to the  
16 politics later?

17 MR. GIUFFRA: Again, that's more  
18 characterization of the politics of the matter.

19 I'm just trying to find the facts.

20 Jane called Mr. Ickes.

21 I would just like to know, on this  
22 transcript, whether Mr. Ickes, on January 4, 1996, is

---

1 the person in the White House Chief of Staff's office  
2 with responsibility for Whitewater matters?

3 A very simple question.

4 I think the record will reflect that it's  
5 a very simple question that's entirely relevant.

6 MR. BEN-VENISTE: Is there an "a person"  
7 or "the person" answer to that question? Clearly a  
8 person to whom you reported. You have responsibility  
9 for Whitewater. Are there other people who were  
10 interested?

11 THE WITNESS: Certainly there are. Mr.  
12 Ickes is the person in the Chief of Staff's office to  
13 whom I report and to whom I deal with out of the  
14 Chief of Staff's office on Whitewater issues.

15 BY MR. GIUFFRA:

16 Q So it's your understanding that he's the  
17 person in the Chief of Staff's office with  
18 responsibility for Whitewater?

19 MR. WITTEN: Don't answer the question.

20 Move along.

21 BY MR. GIUFFRA:

22 Q Do you know whether Mr. Ickes informed



1 anyone of the discovery of these documents?

2 A No. On the 4th?

3 Q Yes.

4 A No.

5 MR. WITTEN: No, you do not know?

6 THE WITNESS: No, I do not know.

7 BY MR. GIUFFRA:

8 Q At approximately 6:00 o'clock, was the  
9 decision made to leave the East Wing of the White  
10 House?

11 A At 6:00? I don't remember what time it  
12 was.

13 Q You had your meeting with Mr. Kendall and  
14 Mr. Schuelke in the hallway, and you discussed how to  
15 handle these records, correct?

16 A That's right.

17 Q What did you do next?

18 A Then we talked about the best way to copy  
19 them, get them copied. Recognized that because they  
20 had color markings on them that we needed a color  
21 copier. And so I undertook to locate in the White  
22 House complex a color copier.

1 Q Just one question to clarify.

2 Did you call your staff and Mr. Ickes, do  
3 you recall when you called your staff and Mr. Ickes?

4 MR. WITTEN: She hasn't said she called  
5 her staff.

6 BY MR. GIUFFRA:

7 Q You called Mr. Ickes by telephone, is that  
8 right?

9 A That's right.

10 Q Do you recall when you called Mr. Ickes by  
11 telephone?

12 A It was after the copying was completed  
13 late in the evening.

14 Q Did you call members of your staff?

15 A No. By telephone, no.

16 Q Did members of your staff, did you see  
17 them in person?

18 A Yes.

19 Q When did you see them in person?

20 A After the copying was completed, later  
21 that evening.

22 Q You undertook to locate a color copying

1 machine within the White House complex?

2 A Right. We located one in the New  
3 Executive Office Building, so we walked over to the  
4 New Executive Office Building.

5 There was also, by the way, some  
6 discussion, I guess it was part of that hallway  
7 discussion of taking photographs of the boxes that  
8 Caroline Huber had in her office.

9 They were sort of messy boxes filled with  
10 junk, so there was discussion of taking photographs  
11 of that. That was another issue that was discussed.

12 We went over to the NEOB. Both Kendall  
13 and Schuelke had to get waved back in. Caroline and  
14 I proceeded into the NEOB to find the office that had  
15 the color copier.

16 Q Who transported the records from the East  
17 Wing to the New Executive Office Building?

18 A I believe Caroline had them in a manilla  
19 folder.

20 Q Approximately what time did you arrive at  
21 the New Executive Office Building?

22 A I don't remember.

1 Q Did you then commence to copy the records  
2 in the New Executive Office Building?

3 A That's right.

4 Q Do you recall where precisely in the New  
5 Executive Office Building you copied the records?

6 A I don't remember the room number.

7 Q Who was it that located the copying  
8 machine, the color copying machine? Someone on your  
9 staff?

10 A That's right.

11 Q Did you and Ms. Huber commence the copying  
12 of these billing records?

13 A Yes.

14 Q Were Mr. Kendall and Mr. Schuelke present?

15 A It took them a little time to get waved in  
16 to the New Executive Office Building so I believe  
17 Caroline and I had already figured out how to work  
18 the copier and begun the copying process by the time  
19 Schuelke and Kendall actually arrived.

20 Q And both of you were involved in the  
21 copying process?

22 A Caroline actually worked the copier and

1 fed the copies of the originals through. And for the  
2 most part, although she did some of this too, I took  
3 the copies off the machine. We removed two copies.  
4 I took the copies off the machine and collated them  
5 and checked them to make sure that everything on the  
6 page had been completely copied.

7 Q Was this the type of copying machine where  
8 you actually had to put the copies through, or did  
9 you just lay them on top of the glass and have them  
10 copied?

11 A I think you lay the copy on top of the  
12 glass. It was incredibly slow. I don't know if  
13 you've ever worked with a color copier before. But  
14 we had originally thought we'd make all the copies we  
15 needed for the various entities we needed to produce  
16 them to that night. And it was an incredibly slow  
17 process, so we only made the two copies that night.

18 Q Approximately how long did it take to make  
19 these two copies?

20 A It must have been a couple hours, maybe  
21 even longer.

22 Q Just to go back and fill in, you testified

1 that there was discussion of photocopying the boxes.  
2 Were photos eventually taken?

3 MR. WITTEN: Photographing?

4 BY MR. GIUFFRA:

5 Q Excuse me. Photographing the boxes?

6 A I believe they were, but I'm not sure.

7 Q Do you know whether anyone did take photos  
8 of the boxes?

9 A Isn't that what you just asked me?

10 Q Yes. The answer is yes, right?

11 A No. I just said I don't know. I believe  
12 they did.

13 Q What's the basis of your belief that  
14 photos were made?

15 A At some point, Kendall and Schuelke left  
16 and left the NEOB to go back to the East Wing and  
17 they had obtained I believe one of those little  
18 disposable cameras. They were going to go back and  
19 take photographs. And then they returned later and  
20 said they had taken them. I've never seen them. I  
21 don't think I ever saw the camera.

22 Q At approximately what time on January 4

1 did you conclude the copying process?

2 A I don't know. I know it was late when I  
3 got back to my office. My kids were in bed.

4 Q So you estimate approximately what time?

5 A 9:30 or 10:00.

6 Q During the course of the copying of the  
7 billing records, did Ms. Huber say anything more  
8 about the discovery of the records?

9 A No. She kept saying things like, I just  
10 don't know. I just don't know. Which was sort of a  
11 more nervous expression than anything of any  
12 substance.

13 Q Did you have any further discussions with  
14 Mr. Schuelke and Mr. Kendall other than those you've  
15 testified to on January 4, 1996?

16 A I'm sure we made additional observations  
17 to one another and about the billing records, but I  
18 don't have any specific --

19 Q So you don't recall any other observations  
20 you might have made to each other about the billing  
21 records?

22 A Not in particular.

---

1 Q Generally?

2 A Just that it was a significant discovery,  
3 that it was something we wanted to produce promptly,  
4 and that we assumed that we would all be testifying  
5 about the events as they were developing that  
6 evening.

7 Q So there was discussion that evening of  
8 the fact that you might have to testify about the  
9 discovery of the billing records?

10 A Sure.

11 Q Do you recall anything more about those  
12 discussions?

13 A No.

14 Q Were the discussions about the fact that  
15 you might have to testify about the discovery of the  
16 billing records during the discussion of how to  
17 handle the records in the East Wing, specifically  
18 with regard to copying?

19 A No.

20 Q When you got back to your office, what did  
21 you do?

22 A I'm not sure exactly what I did. I know



1 at some point shortly after I got back, I learned,  
2 either because I got a telephone call or I made a  
3 call, that the three people identified were in an  
4 office in the Old Executive Office Building, so I  
5 went over and joined them there, and notified them  
6 about the billing records.

7 Q You notified Mr. Ickes when you got back  
8 to your office?

9 A After that, yes.

10 Q Would this be after the meeting in the Old  
11 Executive Office Building with your staff?

12 A Yes.

13 Q Did you reach him at home?

14 A I don't know where I reached him. I  
15 called him through the White House operator, I  
16 believe. I may have paged him. I can't remember.

17 Q With regard to the two copies that were  
18 made of these billing records, --

19 Strike that.

20 After you completed the process of copying  
21 the records, what happened with the copies?

22 A Kendall took the original and one of the

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1 copies, and I took the other copy.

2 Q Do you know how Mr. Kendall handled the  
3 originals?

4 A The original went back in that manilla  
5 folder that Caroline had brought over, and he carried  
6 it off.

7 Q Okay. Was there any discussion how the  
8 copies and the originals should be handled that  
9 evening?

10 In other words, who would get which copy  
11 and who would get the original?

12 A Well, Kendall was going to do the  
13 production so he needed to take, and we talked about  
14 how the Independent Counsel would get the originals,  
15 so he needed to take the original, and then he took  
16 the copy set, and I understood that was what he was  
17 going to make additional copies from.

18 Q And then you would take a copy just to  
19 analyze? You took a copy with you?

20 A Yes.

21 Q Was there any discussion of why you would  
22 take a copy of the billing records?

1       A    I don't know if there was any discussion  
2 of that or not.

3       Q    Do you know why you took a copy of the  
4 billing records?

5       A    I took a copy because I wanted to have a  
6 precise set of what we copied that night from the  
7 originals so that I had that in my custody, and also  
8 because I wanted to review it.

9       Q    Do you know when the Office of the  
10 Independent Counsel was informed of the discovery of  
11 these billing records?

12      A    Yes.

13      Q    When was the Office of Independent Counsel  
14 informed of the discovery of these billing records?

15      A    I thought we agreed yesterday we weren't  
16 getting into that.

17           MR. BEN-VENISTE: Did you agree, Bob?  
18 Independent Counsel has asked us not to.

19           MR. GIUFFRA: I think there's a big  
20 difference between a question and it's the only  
21 question I'll ask.

22           When was the notification.

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1           MR. BEN-VENISTE: Did you agree?

2           MR. GIUFFRA: No, we did not agree. This  
3 is not a question of communications between Ms.  
4 Sherburne or the White House with the Independent  
5 Counsel going to how did you find the records, what  
6 did you say to the Independent Counsel or the Grand  
7 Jury.

8           THE WITNESS: But throughout this whole  
9 process, we've had an understanding with you and have  
10 never talked about our communications with or  
11 cooperation with the Independent Counsel, and I don't  
12 understand why it's relevant here and why we'd start  
13 doing that now.

14          MR. GIUFFRA: I wish to ask you two  
15 questions. One, when was the notification of  
16 Independent Counsel, when you notified the  
17 Independent Counsel, and you obviously are free to  
18 decide whether you want to respond to those two  
19 questions. I don't intend to ask any others.

20          THE WITNESS: Let's defer it.

21          BY MR. GIUFFRA:

22          Q    Until when?

1 MR. WITTEN: What has the history been  
2 with respect to such questions?

3 MR. BEN-VENISTE: I don't know the  
4 agreement you entered into. I don't know that we had  
5 an agreement with Independent Counsel that we're  
6 supposed to ask witnesses about their contact with  
7 the Independent Counsel.

8 MR. GIUFFRA: I think that's a bit of an  
9 overstatement.

10 MR. BEN-VENISTE: Whether it is or it  
11 isn't, I wasn't there.

12 MR. GIUFFRA: I believe you've asked  
13 numerous witnesses. Again, I don't want to clutter  
14 this record up.

15 MR. BEN-VENISTE: So let's move on.

16 MR. GIUFFRA: What did you say to the  
17 Independent Counsel? When did you discuss various  
18 events with the Independent Counsel, and in  
19 particular I recall the long examination of Officer  
20 Henry O'Neill about his communications with the  
21 Independent Counsel. I'm sure you recall that.

22 MR. BEN-VENISTE: Are you talking about

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1 the FBI reports? We could get into all that but I  
2 agree that would clutter up the record.

3 MR. WITTEN: Let's move on from here.

4 MR. GIUFFRA: So right now, Jane's not  
5 going to answer that question, those two questions?

6 THE WITNESS: Not right now.

7 BY MR. GIUFFRA:

8 Q Do you know when Mrs. Clinton was notified  
9 of the discovery of these billing records?

10 A Yes.

11 Q When was Mrs. Clinton notified of the  
12 discovery of these billing records?

13 A January 5th.

14 Q Do you know who notified Mrs. Clinton of  
15 the discovery of the billing records?

16 A Yes.

17 Q Who notified Mrs. Clinton of the discovery  
18 of the billing records?

19 A David Kendall.

20 Q Did you have any communication with Mrs.  
21 Clinton about the discovery?

22 A On January 5th, no.

1 Q Were you present during the conversation  
2 with Mr. Kendall with regard to the discovery of the  
3 billing records?

4 A No.

5 Q This was a communication between Mr.  
6 Kendall and Mrs. Clinton that you were not present  
7 for, correct?

8 A That would be right.

9 Q Now when you spoke to Ms. Huber on the  
10 4th, was anyone taking notes?

11 A No.

12 Q Do you know who was present, if anyone?  
13 Strike that.

14 Do you know how Mr. Kendall notified Mrs.  
15 Clinton of the discovery of these records, by  
16 telephone or in person?

17 A I don't know.

18 Q Do you know whether anyone else was  
19 present when he notified Mrs. Clinton?

20 A No.

21 (Pause.)

22 Q Did anyone take Ms. Huber to the third

1 floor of the White House on January 4th to the Book  
2 Room, to see if you could identify where she found  
3 the records?

4 A Not that I'm aware of.

5 Q Do you know whether anyone's ever done  
6 that?

7 A I don't know.

8 Q Have you had any further conversation,  
9 other than those you've testified about, with Ms.  
10 Huber about the discovery of the records?

11 A Just one, which was after we left the New  
12 Executive Office Building and we were walking back to  
13 the White House.

14 Ms. Huber said to me that she was very  
15 upset and she just didn't know if she had done the  
16 right thing.

17 And I said, what do you mean by that?

18 And she said, I didn't know what to do  
19 when I found these today, and maybe I should have  
20 just thrown them out.

21 And I said, Caroline, you did the right  
22 thing. It would have been wrong to throw them out.



1 You did the right thing to call David.

2 And I tried to reassure her and calm her  
3 down.

4 Q And have you had any other communication  
5 with Ms. Huber at any other time about the discovery  
6 of these records?

7 MR. WITTEN: There's a cutoff date. I  
8 don't know whether it's relevant to the answer but I  
9 thought there was a cutoff date for this inquiry.

10 THE WITNESS: After that night, no.

11 BY MR. GIUFFRA:

12 Q Was anyone else present when you had this  
13 conversation with Ms. Huber?

14 A Which one, the one I just told you about?

15 Q Yes, walking back.

16 A Walking back, no.

17 Q Do you have any understanding as to  
18 whether Ms. Huber spoke with Mrs. Clinton on January  
19 4th, 1996?

20 A No.

21 Q Do you know one way or the other, or the  
22 answer is no, that she didn't speak to her?

1 A I don't have any knowledge one way or the  
2 other.

3 Q At any time on January 4, 1996, did Ms.  
4 Huber indicate to you that she had spoken to Mrs.  
5 Clinton about Rose Law Firm billing records in the  
6 past?

7 A No.

8 Q Did Ms. Huber indicate --  
9 Strike that.

10 You've obviously seen these records on  
11 page 2892. In the upper left hand corner, there's a  
12 notation 2/12/92 8:41, I believe her testimony is  
13 that that is the time that the client billing and  
14 payment history was printed off the Rose Law Firm  
15 computer system.

16 Did Ms. Huber indicate to you that she had  
17 ever seen these billing records or played any role in  
18 transporting them?

19 Strike that.

20 Has Ms. Huber ever indicated to you that  
21 she played any role in transporting these billing  
22 records from Arkansas to Washington?

1 A No.

2 Q Do you know who transported these billing  
3 records from Arkansas to Washington?

4 A No.

5 Q Other than testifying that she saw the  
6 records when she found them in the Book Room --  
7 Strike that.

8 Other than stating to you that she saw the  
9 records when she found them in the Book Room, and  
10 later on, January 4, did Ms. Huber indicate that  
11 she'd ever seen these records before?

12 A No.

13 Q Just going back to the question of the  
14 copying of the records and the fingerprints, do you  
15 recall anything more about that discussion?

16 A Anything more than what I've already said?

17 Q Yes.

18 A No.

19 Q Do you recall who made the decision that  
20 you should copy the records, rather than try and take  
21 steps to see to it that perhaps fingerprints wouldn't  
22 be lost because they would be handled by other

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1 people?

2 MR. WITTEN: That's not what she testified  
3 to, but she can answer the question.

4 THE WITNESS: Is the question who made the  
5 decision to go ahead and copy the records that night?

6 BY MR. GIUFFRA:

7 Q Yes.

8 A That was a joint decision.

9 Q And there was no dissent with regard to  
10 copying the records among the three of you?

11 A We discussed the issue and reached a joint  
12 decision to go ahead and copy the records.

13 Q Do you recall anything more about those  
14 discussions?

15 (Pause.)

16 A No.

17 Q Do you recall who initially suggested  
18 copying the records?

19 MR. IVEY: I'm sorry. What was the  
20 question?

21 BY MR. GIUFFRA:

22 Q Do you recall who initially suggested

1 copying the records?

2 A I don't. I think we all assumed they'd  
3 have to be copied promptly in order to produce them  
4 promptly which was the objective. And I don't  
5 remember how that copying issue first came up. I  
6 think the presumption was copying, and I raised the  
7 issue about, should we copy them given the likelihood  
8 that they may be fingerprinted.

9 We had the discussion and then we jointly  
10 decided to proceed with the copying.

11 Q Do you recall anything that Mr. Schuelke  
12 said during the course of that conversation?

13 A I recall Mr. Schuelke agreeing that there  
14 was an obligation to the clients to keep a copy of  
15 the records so they could be analyzed, and that to do  
16 anything else would be in contravention of an  
17 obligation.

18 Q Now when you spoke to Ms. Huber, she  
19 initially said that she found the records in the Book  
20 Room, three to ten months previously?

21 A She never said three to ten months.

22 First she said three months, and then at a

1 later point, she said ten months.

2 Q You're aware of her testimony where she's  
3 indicated that she found the records in the first  
4 week or two of August.

5 Did she say anything about the first week  
6 or two of August at any time on January 4, 1996?

7 A No. In fact, her testimony, the precision  
8 of her testimony surprised me when I heard it because  
9 of the confusion she had that evening about recalling  
10 a precise time when she discovered the records and  
11 the broad range of possibilities that she identified.

12 Q Let's focus just on the question of where  
13 Ms. Huber found the records in the Book Room.

14 MR. WITTEN: Focus on what she said about  
15 it.

16 MR. GIUFFRA: Exactly.

17 BY MR. GIUFFRA:

18 Q Do you recall anything more specific about  
19 what Ms. Huber said about where she found the records  
20 in the Book Room?

21 A No.

22 Q You've heard Ms. Huber's testimony, I

1 presume, where she said that she found them on a  
2 table that was in the center of the Book Room?

3 A I've heard that testimony, yes.

4 Q Did she say anything about finding the  
5 records on a table in the Book Room on January 4,  
6 1996?

7 A At one point in the conversation, she said  
8 she thought they were on a table. She never said  
9 anything about folded over on a corner of the table  
10 on top of books under a spotlight.

11 And another time, I had the impression  
12 that they were on a shelf. I had the impression,  
13 from what she said, that they were on top of  
14 something. They weren't hidden in a file drawer or  
15 in a cabinet. That they were out. But I didn't have  
16 any sense of precision that they were on a table, or  
17 on a shelf or on top of a file cabinet. I mean, that  
18 was the impression that she left with me, that it  
19 could have been any kind of place like that.

20 Q Now, with regard to what Ms. Huber said to  
21 you about noticing that these were Rose billing  
22 records, do you recall anything further about what

1 Ms. Huber said about that subject?

2 MR. WITTEN: Again, that's not precisely  
3 what Jane said, but she should go ahead and answer.

4 THE WITNESS: No.

5 BY MR. GIUFFRA:

6 Q So your best recollection is that she said  
7 something about that she might have realized they  
8 were Rose billing records when she discovered them in  
9 the Book Room, put them aside and did not focus on  
10 the fact that they might be relevant to Madison?

11 MR. WITTEN: Jane said she contradicted  
12 herself. That's not a precise way of characterizing  
13 Jane's earlier testimony.

14 BY MR. GIUFFRA:

15 Q Why don't you state again, so that the  
16 record is clear, what Ms. Huber said about her  
17 noticing that these were Rose Law Firm billing  
18 records?

19 A Well, at one point she said she hadn't  
20 looked at them at all, and she just threw them in the  
21 box.

22 Q Did she tell you that when you first got



1 there?

2 A I think she said that first. She was very  
3 upset and she was flustered and this came out in a  
4 very disorganized, non-methodical way.

5 So at one point she said she didn't even  
6 look them, she just tossed them in a box.

7 At another point, she said that she opened  
8 them up, recognized them as Rose Law Firm material  
9 because of her experience as the office manager at  
10 the Rose Law Firm.

11 Q And this would be back when she originally  
12 found the records in the Book Room?

13 A That's right.

14 And that she folded them back over and  
15 threw them in a box.

16 Q And that she did not realize, when she did  
17 that, that they were relevant to the Whitewater  
18 investigation?

19 A She didn't say that.

20 Q What did she say specifically?

21 A I just told you what she said  
22 specifically. She didn't say, I mean, you just put

1 more words in her mouth that she didn't say.

2 Presumably she didn't realize, or maybe she did, I  
3 don't know.

4 Q Have you ever been to the Book Room?

5 A Yes.

6 Q Had you been to the Book Room prior to  
7 January 4, 1996 -- strike that.

8 As of January 4, 1996, had you ever been  
9 to the Book Room?

10 A Yes.

11 Q What is your understanding --

12 Strike that.

13 The Book Room is located on the third  
14 floor of the White House residence?

15 A That's right.

16 MR. WITTEN: It hasn't moved.

17 BY MR. GIUFFRA:

18 Q And the Book Room is next to Mrs.  
19 Clinton's office on the third floor?

20 MR. WITTEN: Come on, Bob. It's now 6:00  
21 o'clock. You've got this testimony all over the  
22 place.

1 BY MR. GIUFFRA:

2 Q The answer is yes?

3 A Yes.

4 Q Do you have any understanding as to the  
5 persons who would ordinarily have access to the Book  
6 Room?

7 A I have an understanding that once you have  
8 access to the residence, you can roam freely in the  
9 residence, so that anyone who has access to the  
10 second or third floors of the residence could have  
11 access to the Book Room at any time.

12 Q As of January 4, 1996, do you recall on  
13 how many occasions you had been to the Book Room?

14 A Just once.

15 Q Can you tell us anything about that  
16 occasion when you were in the Book Room?

17 A Sure. I think it was sometime in the  
18 Spring of '95, and Caroline Huber, I was with  
19 Caroline. Caroline showed me the room and described  
20 it. I thought she described it as her work room or  
21 as a junk room. I remember that it was cluttered and  
22 messy. There was, I believe, a clothes rack with

1 clothes hanging on it in there. I thought there was  
2 a table that had like a lamp, a lamp shade and junk  
3 covered over across the top of the table.

4 I don't remember file cabinets, and  
5 frankly I don't even remember books. I just remember  
6 thinking that it looked like a staging area, you  
7 know, where you put junk when you don't know what  
8 else to do with it, and while you're trying to figure  
9 it out.

10 Q Since the discovery of these records on  
11 January 4, 1996, have you had any conversations with  
12 Mr. Schuelke about the circumstances surrounding the  
13 discovery of the records?

14 MR. WITTEN: Again, after the cutoff date.  
15 I don't know whether that's relevant.

16 THE WITNESS: I may have spoken to him on  
17 the 5th, but I don't remember that I did. Actually,  
18 I did because we had press inquiries and we were  
19 trying to figure out what the press inquiries would  
20 be, and that must have been on the 5th because that  
21 was the day we disclosed the records publicly as  
22 well. So I believe I did talk to Hank on the 5th.

1 BY MR. GIUFFRA:

2 Q Did he say anything further about his  
3 communications with Ms. Huber with regard to the  
4 discovery of these records?

5 A In that conversation? No.

6 Q Have you had other conversations with Mr.  
7 Schuelke in which he's discussed with you what Ms.  
8 Huber has said about the discovery of these records?

9 MR. WITTEN: Before the cutoff date.

10 MR. GIUFFRA: I just want to be clear on  
11 this. This cutoff date.

12 MR. WITTEN: When we talked yesterday, we  
13 talked up to the production to the Committee.

14 BY MR. GIUFFRA:

15 Q Your view is that the cutoff date is  
16 January 5, 1996?

17 A I thought that was your view too.

18 Q I think there's a tendency here to set  
19 cutoff dates and sometimes with regard to certain  
20 things, for example, you've made some statements  
21 about what Ms. Huber has said that may be a specific  
22 area that a cutoff date wouldn't necessarily apply.

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1 With regard to what Mr. Schuelke has said  
2 to you about what Ms. Huber has said to him with  
3 regard to the circumstances surrounding the discovery  
4 of these records.

5 MR. WITTEN: I didn't intend this as a  
6 negotiation, but my understanding was that there was  
7 an agreement that your inquiry would lead up to the  
8 production of documents to the Committee.

9 MR. GIUFFRA: I want to make this clear on  
10 the record. There was no agreement. We had a  
11 general discussion about what the scope would be, and  
12 there was an understanding as to certain subjects  
13 upon which there were sensitivities on each side's  
14 part.

15 I indicated quite clearly at the meeting  
16 that certain subjects would have to be taken under  
17 advisement or it would depend on the testimony.

18 THE WITNESS: You indicated quite clearly  
19 at the meeting that there's one subject that if there  
20 were any changes that were going to be made, that you  
21 would notify at the end of the day, and you didn't.

22 MR. BEN-VENISTE: I wasn't there.

1           Why don't we operate on the basis of a  
2 good faith effort to comply with whatever agreement  
3 was reached and leave other areas for later  
4 discussion?

5           MR. GIUFFRA: Just to be clear, my  
6 understanding was that there were areas upon which  
7 there might have been disagreement, and we were going  
8 to see if we could avoid getting into those areas  
9 just to avoid a dispute, but there was no blanket  
10 agreement as to the exact parameters of the inquiry  
11 because we didn't know what the testimony was.

12          BY MR. GIUFFRA:

13          Q   On the 5th, did you have any further  
14 conversation with Mr. Kendall?

15          A   Do you want the answer about Schuelke?

16          Q   On the 5th, did you have any communication  
17 with Mr. Kendall?

18          A   I'm sure I did.

19          Q   Do you recall anything about those  
20 communications?

21          MR. WITTEN: Let us consult for a minute.

22          (Discussion off the record.)

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1           MR. WITTEN: She's going to answer this  
2 question without regard to communications, if any,  
3 that she may have had with Mr. Kendall relating to  
4 communications with Independent Counsel.

5           Putting that aside, she can answer the  
6 question.

7           THE WITNESS: Mr. Kendall and I talked  
8 about production schedules when the copies were going  
9 to get to the Hill, when they were going to leave,  
10 what his transmittal letter was going to say.

11          We talked about a press statement. We  
12 talked about when these documents could be released  
13 to the press. He wanted to wait until after we were  
14 certain that you had received them.

15          And that's all I recall.

16          BY MR. GIUFFRA:

17          Q   Do you recall anything specifically about  
18 the transmittal letter?

19          A   No.

20          Q   I believe the transmittal letter indicated  
21 that the records were found in Ms. Huber's office.  
22 Does that sound right?



1 A I'd have to look at the transmittal  
2 letter.

3 (Pause.)

4 Q While Doug goes to find it, do you know  
5 approximately what time the records were turned over  
6 to the Senate?

7 A What time were they?

8 Q You don't know? Do you recall anything  
9 about any discussions with regard to the timing of  
10 the turning over the records to the Senate, whether  
11 to do it early in the day, late in the day?

12 A I recall that we wanted to do it as  
13 quickly as possible and that the copying tasks were  
14 slowing things down.

15 Q Do you recall any of the discussions with  
16 anyone on either the 4th or the 5th with regard to  
17 whether these billing records were called for by the  
18 Senate subpoena of October 30, 1995?

19 A No. What Senate subpoena? Oh, October,  
20 the October 30th, right, okay.

21 Q You've reviewed the Senate subpoena of  
22 October 30, 1995, correct?

1 A Correct.

2 Q Do you believe these billing records were  
3 called for by that subpoena.

4 A You're asking me for a legal conclusion?

5 Q Were you the person at the White House in  
6 charge of complying with the Senate subpoena?

7 A Yes. But I want to make clear that in  
8 producing these records to the Senate, I never looked  
9 at the subpoena. It never occurred to me to think  
10 about whether or not they were responsive to the  
11 subpoena.

12 I recognized that they were relevant to  
13 the Senate's inquiry. I recognized it the minute I  
14 saw them. And determined immediately that we would  
15 produce them as promptly as possible to the Senate.  
16 So there was never any question that it was relevant  
17 to your inquiry and that we would produce them to  
18 you.

19 Now whether they're technically called for  
20 by the subpoena, you know, I'm not going to analyze  
21 that here.

22 But did we think they were relevant to

1 your inquiry and that we ought to produce them, yes.  
2 Which is exactly what we did.

3 (Pause.)

4 Q Did there come a time in 1994 when the RTC  
5 served a subpoena on the White House for certain  
6 records relating to the Rose Law Firm?

7 A Not that I'm aware of.

8 Q Do you know whether the RTC served a  
9 subpoena --

10 Strike that.

11 Do you know whether the RTC has ever  
12 served a subpoena on the White House since  
13 January 20, 1993 calling for records of the Rose Law  
14 Firm?

15 A Not that I'm aware of.

16 Q Do you know whether the RTC has ever  
17 served a subpoena, since January 20, 1993, on the  
18 President and Mrs. Clinton in their personal  
19 capacity, calling for records of the Rose Law Firm?

20 A I know that the RTC has served subpoenas  
21 that Kendall has received, but I don't know who  
22 they've been served on, and I've never seen them, and

1 I don't know what they call for.

2 (Handing document to witness.)

3 BY MR. GIUFFRA:

4 Q Let me show you a copy of Mr. Kendall's  
5 letter of January 5, 1996.

6 A Okay.

7 Q Did you review a draft of this letter  
8 before it was sent?

9 I should note that the letter is dated  
10 January 5, 1996 from David Kendall to Robert Giuffra,  
11 Senate Banking Committee.

12 A I don't think I did.

13 Q Do you recall any discussion with Mr.  
14 Kendall on January 5th, with regard to notifying  
15 either the Senate or the press with regard to where  
16 the records were discovered?

17 MR. WITTEN: May I?

18 (Handing document to witness.)

19 THE WITNESS: I believe that this letter,  
20 if I didn't review a copy of it, I think that Mr.  
21 Kendall read it to me. I think we discussed that he  
22 should explain that Ms. Huber had found them. I

1 don't remember more about that discussion.

2 I'm not sure if that's responsive to your  
3 question. But if it's not --

4 BY MR. GIUFFRA:

5 Q Did you have any communications with Mr.  
6 Kendall on January 5 on the question of whether you  
7 should have copied the records on January 4th?

8 A No.

9 MR. GIUFFRA: Could we go off the record  
10 for just a second?

11 (Discussion off the record.)

12 MR. GIUFFRA: Let's go back on the record.

13 Just so the record is clear, Ms. Sherburne  
14 will not answer the question, when did you notify the  
15 Independent Counsel of the discovery of the records.

16 Who notified the Independent Counsel of  
17 the discovery of the records?

18 MR. WITTEN: I'm advised by my client, and  
19 have concluded, based on the discussion that took  
20 place off the record, that it's been consistent  
21 history of the dealings between the White House and  
22 the majority and minority of this Committee that the

1 Committee has eschewed inquiry into communications  
2 between the White House and its counsel and the  
3 Independent Counsel.

4 If that's the case, as I believe it is,  
5 then this line of inquiry is inappropriate.

6 We've also asked Mr. Giuffra off the  
7 record to explain why it is he needs to know this  
8 information. Indeed, I said to Mr. Giuffra off the  
9 record, please persuade us why we should answer this  
10 question.

11 And aside from saying that it was a simple  
12 question, he gave us no reason.

13 MR. GIUFFRA: That's not true.

14 MR. WITTEN: As we also pointed out to Mr.  
15 Giuffra, Ms. Sherburne's testimony already disclosed  
16 that the copying was done on January 4th, and that  
17 the Independent Counsel was not consulted about the  
18 question of whether, and if so, how to copy.

19 Inferences can easily be drawn about that.  
20 So that is the history of why these questions aren't  
21 being answered.

22 And now I suggest we move on.

1 MR. GIUFFRA: Let me just make, so the  
2 record is clear.

3 BY MR. GIUFFRA:

4 Q Ms. Sherburne, is it your testimony that  
5 you did not consult --

6 Strike that.

7 That you, Mr. Kendall and Mr. Schuelke did  
8 not consult with the Independent Counsel with regard  
9 to whether you should copy these records on  
10 January 4, 1996?

11 MR. WITTEN: She's already testified.

12 MR. BEN-VENISTE: She's already accurately  
13 testified to that. That was her testimony.

14 BY MR. GIUFFRA:

15 Q Would you answer the question?

16 MR. WITTEN: Answer the question, but  
17 we're not going to repeat all this for some tidy  
18 little point you're trying to make here.

19 THE WITNESS: The only people who talked  
20 about copying were Kendall, Sherburne, and Schuelke.

21 BY MR. GIUFFRA:

22 Q Was there any discussion on January 4th,

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1 among the three of you, as to whether you should  
2 consult with Independent Counsel before making that  
3 decision?

4 MR. WITTEN: You've asked it and she's  
5 answered it.

6 THE WITNESS: No.

7 MR. GIUFFRA: With regard to the relevance  
8 of the question of communication with the Independent  
9 Counsel, number one, there's never been a  
10 circumstance in the course of this investigation  
11 where critical evidence has been found at the White  
12 House under the circumstances under which we found  
13 these documents.

14 There's also never been a circumstance in  
15 which possibly actions were taken that compromised  
16 evidence that might indicate who handled the  
17 documents.

18 THE WITNESS: Is that in the history of  
19 this Administration, or are you referring all the way  
20 back to the Bush Administration and the little matter  
21 of the safe?

22 MR. WITTEN: Mr. Giuffra, I think this is



1 the time for you to ask Ms. Sherburne questions.

2 Excuse me. I don't think it's a time for  
3 you to make any accusations about anything. Nor do I  
4 think any of the accusations you've hinted at --

5 MR. GIUFFRA: No one's making accusations.  
6 You took statements that were off the record and  
7 mischaracterized them. And I want to make sure the  
8 record is clear.

9 MR. WITTEN: It's 6:20. If you have  
10 another question, it's time to ask it.

11 BY MR. GIUFFRA:

12 Q On January 5, 1996, did you have any  
13 communications with anyone at the White House about  
14 the discovery of these records?

15 A I'm sure I did.

16 Q Did you discuss the discovery of the  
17 records with Margaret Williams?

18 MR. WITTEN: We're on that date still.

19 THE WITNESS: I don't believe so.

20 BY MR. GIUFFRA:

21 Q Do you have any recollection of anyone at  
22 the White House you might have spoken to about the

1 discovery of these records?

2 A I know I spoke to Jack Quinn and I also  
3 spoke to the President.

4 Q Did you speak to anyone else?

5 MR. BEN-VENISTE: Please keep your voice  
6 up, Bob. No one can possibly hear you when you  
7 whisper.

8 THE WITNESS: He asked me if I spoke to  
9 anyone else.

10 (Pause.)

11 THE WITNESS: I don't have a specific  
12 recollection. I'm sure I spoke to other members of  
13 my staff because we were preparing for press  
14 inquiries, but I don't have specific recollections of  
15 conversations in addition to those I've testified to.

16 BY MR. GIUFFRA:

17 Q Do you recall when you spoke to the  
18 President during the day?

19 A I believe it was morning.

20 Q Was anyone else present during this  
21 conversation?

22 A Yes.

1 Q Who else was present?

2 A Mr. Ickes.

3 Q Was anyone else present beside the  
4 President, yourself and Mr. Ickes?

5 A No.

6 Q Before speaking to the President, did you  
7 have a communication with Mr. Ickes on the morning of  
8 January 5th?

9 A Well, we walked over to the Oval together.

10 Q What do you recall about the communication  
11 you had --

12 Strike that.

13 Do you recall anything about the  
14 conversation you had with Mr. Ickes as you were  
15 walking over to the Oval Office?

16 A No.

17 Q What do you recall, if anything, about the  
18 communication you had with the President on  
19 January 5, 1996?

20 A I think, as with the other communications  
21 that we had, I'm prepared to tell you that the  
22 subject of the communication was notifying the

1 President of the discovery of the billing records and  
2 their production.

3 Beyond that, I'm not prepared to testify.

4 Q Am I correct --

5 Strike that.

6 Is it your understanding that you were the  
7 first person to notify the President of the discovery  
8 of the records?

9 A I believe so.

10 Q And you would have advised the President  
11 prior to the production of these records to the  
12 Senate?

13 A I believe the communication with the  
14 President was in the morning. I believe the Senate  
15 received the documents in the afternoon.

16 Q So the record is clear, you won't answer  
17 any questions with regard to the substance of your  
18 conversation with the President and Mr. Ickes?

19 A I've always understood that the Committee  
20 was not going to ask questions that went to  
21 communications between lawyers and the President.

22 And if that's not the case, I'm not

1 authorized to waive that privileged communication.

2 If you do intend to break with the  
3 understanding that I've heard the Chairman express  
4 from time to time, and the practice that appears to  
5 have been followed, I can consult on that. But I  
6 don't have the authority to waive that communication.

7 Q I think there's a distinction between  
8 communications that you might have had with the  
9 President and communications that Mr. Kendall might  
10 have had with the President.

11 A We're two different people.

12 Q In different positions.

13 Approximately how long was your  
14 conversation with the President?

15 A It was probably five minutes, no more than  
16 ten.

17 Q Do you know whether the President was  
18 advised prior to the production of these documents,  
19 the billing records to the Independent Counsel?

20 MR. IVEY: Could you repeat the question?

21 BY MR. GIUFFRA:

22 Q Was the President advised of the discovery

1 of the billing records prior to the transmission of  
2 the records to the Independent Counsel?

3 A I don't know.

4 MR. WITTEN: Excuse me, can we talk?

5 (Discussion off the record.)

6 (Readback.)

7 MR. WITTEN: Thank you.

8 BY MR. GIUFFRA:

9 Q Did you have any further communications  
10 with Mr. Ickes on January 5, about the discovery of  
11 the billing records?

12 A I don't remember.

13 Q And you say you have no recollection at  
14 all or any specific recollection of any further  
15 discussion you had with Mr. Ickes on January 5 about  
16 the billing records?

17 A I don't understand the distinction.

18 Q When you say you don't know, it means you  
19 have absolutely no recollection of any further  
20 communications with Mr. Ickes on January 5.

21 A Do I know for sure that I didn't, no. I  
22 don't know for sure that I didn't.

1 Q So it's your testimony that you just don't  
2 know whether you had any further communications with  
3 Ickes on January 5?

4 MR. WITTEN: Relating to this subject?

5 THE WITNESS: I'm saying I don't know that  
6 I didn't.

7 BY MR. GIUFFRA:

8 Q Do you think you may have?

9 MR. BEN-VENISTE: It meant that maybe she  
10 did.

11 MR. WITTEN: It's meant that for about the  
12 last five minutes.

13 BY MR. GIUFFRA:

14 Q Did you take any action with regard to  
15 these billing records following your meeting with the  
16 President?

17 A As a result of the meeting with the  
18 President?

19 Q Just any action, did you take any action  
20 with regard to the billing records following the  
21 meeting with the President, not as a result of, but  
22 just following the meeting?

1 A I took no action as a result of the  
2 meeting with the President.

3 I took many actions with regard to the  
4 billing records after the meeting with the President.

5 Q What actions did you take after the  
6 meeting with the President with regard to the billing  
7 records?

8 A Principally related to preparing the  
9 records once we received them from Kendall for  
10 distribution to the press.

11 We also worked on a press statement and  
12 that's all I can think of right now.

13 (Pause.)

14 Q Just so the record is clear with regard to  
15 your communication with the President, would the  
16 assertion of executive privilege or attorney-client  
17 privilege or both?

18 A I'm not asserting anything. I'm saying  
19 I've never understood that you were going to inquire  
20 into this, so I'm not prepared to answer, and I don't  
21 have the authority to waive any privilege.

22 Q So what is the privilege that you could



1 waive? Is it executive or attorney-client?

2 A Call it what you want, I can't waive it.

3 Q Did Mr. Kendall indicate to you on  
4 January 5, 1996, that he'd spoke with the First Lady  
5 about the billing records?

6 A Yes.

7 Q Did he say anything to you about what he'd  
8 discussed with the First Lady about the billing  
9 records?

10 A No.

11 Q He just indicated that he had spoken with  
12 her?

13 A That's correct.

14 Q And he had indicated that he had notified  
15 her of the discovery of the billing records?

16 A The conversation wasn't that specific. I  
17 just knew that he had had a conversation with her  
18 about the billing records.

19 Q Do you know whether the First Lady  
20 reviewed --

21 Strike that.

22 I show you a document. It bears Bates

1 number S20532 through 20534.

2 (Handing document to witness.)

3 BY MR. GIUFFRA:

4 Q Who would have prepared that document?

5 MR. BEN-VENISTE: What is this?

6 MR. GIUFFRA: It's a statement of David E.  
7 Kendall, dated January 5 1996, draft.

8 (Pause.)

9 THE WITNESS: I'm not sure. It would have  
10 been something that my staff worked on.

11 BY MR. GIUFFRA:

12 Q Do you know whether Mrs. Clinton reviewed  
13 this statement?

14 Strike that.

15 Did there come a time on January 5, 1996,  
16 when Mr. Kendall actually issued a statement with  
17 regard to the discovery of the billing records?

18 A Yes.

19 Q Do you know whether the First Lady  
20 reviewed the final draft of that statement before it  
21 was sent out?

22 A No, I don't.

1 Q Do you know whether she reviewed any of  
2 the drafts of the statements of Mr. Kendall on  
3 January 5, 1996?

4 A Any of the drafts that you have in your  
5 hand?

6 Q 20535.

7 A Let me just say, I don't believe she did,  
8 but I don't know for certain.

9 Q Do you know whether Ms. Williams reviewed  
10 any of the drafts of the final statement?

11 A I don't believe she did.

12 Q Do you know whether anyone on your staff --  
13

14 Strike that.

15 Did anyone on your staff speak to Ms.  
16 Williams on January 5, 1996 about these billing  
17 records?

18 A No, I don't believe so. Not that I'm  
19 aware of.

20 Q I'd like to show you a document that bears  
21 Bates stamp 20541 and 20542.

22 (Handing document to witness.)

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1 BY MR. GIUFFRA:

2 Q Does that appear to be the final statement  
3 that Mr. Kendall issued on January 5, 1996?

4 MR. BEN-VENISTE: Did you say final  
5 statement?

6 MR. GIUFFRA: The actual statement, excuse  
7 me.

8 (Pause.)

9 THE WITNESS: I believe that document  
10 20541 and 2 is the final statement.

11 BY MR. GIUFFRA:

12 Q Let me show you the statement bearing  
13 Bates number 20532 to 20534, and direct your  
14 attention to the sentence beginning "the records  
15 demonstrate that Mrs. Clinton did no work on the 1985  
16 purchase of blank insert other positive news from the  
17 contents of the record."

18 Do you see that?

19 A Yes, I do.

20 Q In the final statement of Mr. Kendall,  
21 that sentence does not appear.

22 MR. BEN-VENISTE: I'm sorry, where are

1 you reading that?

2 MR. WITTEN: Was there a question?

3 BY MR. GIUFFRA:

4 Q Yes. You would note that that sentence  
5 does not appear in the final --

6 MR. IVEY: Which sentence?

7 MR. GIUFFRA: The sentence beginning "the  
8 records demonstrate that Mrs. Clinton did no work in  
9 1985 purchase of blank insert other positive news  
10 from conference in the records."

11 MR. IVEY: And that's on document number?

12 MR. GIUFFRA: 20532.

13 MR. WITTEN: These drafts speak for  
14 themselves.

15 MR. GIUFFRA: Are you testifying now?

16 MR. WITTEN: You're asking the witness at  
17 6:35 in the evening to tell you what you may already  
18 know about what a document you gave her says or  
19 doesn't say. That's not an efficient use of our  
20 time.

21 BY MR. GIUFFRA:

22 Q Do you recall any discussion on January

1 5th about whether to include the sentence beginning  
2 "the records demonstrate that Mrs. Clinton did no  
3 work on the 1985 purchase of blank, period?

4 A I recall a brief discussion in which we  
5 concluded that trying to describe the substance of  
6 these billing records, given the limited time we had  
7 to analyze them, was not advisable.

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1 Q Do you know whether Mr. Kendall spoke to  
2 Mrs. Clinton on January 5 about the substance of the  
3 billing records?

4 A No. I don't.

5 Q Do you know whether Mr. Ickes spoke to  
6 Mrs. Clinton on either January 4 -- strike that.

7 Q Do you know whether Mr. Ickes spoke to  
8 Mrs. Clinton on January 4 or January 5, 1996, about  
9 the billing records?

10 A No. I don't.

11 Q Prior to the transmittal of the billing  
12 records to the White House, did you speak to any non-  
13 White House employee about the transmittal to the  
14 White House?

15 A Prior to the transmittal of the records to  
16 the White House?

17 Q To the Senate; excuse me. It's been a  
18 long day.

19 A Not that I know of.

20 Q You don't recall speaking to Mr. Lyons  
21 about these records?

22 A No.

1 Q You don't recall speaking to Mr. Blair  
2 about these billing records?

3 A No.

4 Q Did you speak to Ms. Wright about the  
5 billing records?

6 A No.

7 THE WITNESS: Could you just read back  
8 that last question?

9 MR. GIUFFRA: I'll just restate it.

10 BY MR. GIUFFRA:

11 Q On either January 4 or January 5, 1996,  
12 did you speak to any non-White House employees about  
13 the billing records?

14 A I believe I had a brief conversation with  
15 Mr. Ben-Veniste.

16 Q When did you have the conversation with  
17 Mr. Ben-Veniste?

18 A I believe it would have been January 5,  
19 probably shortly before the records were transmitted.

20 Q To the Senate?

21 A To the Senate.

22 Q What do you recall about the communication



1 you had with Mr. Ben-Veniste on January 5, 1996,  
2 prior to the transmission of records to the Senate?

3 A Nothing.

4 Q Do you normally communicate with Mr. Ben-  
5 Veniste -- strike that.

6 Did you contact Mr. Ben-Veniste, or did he  
7 contact you?

8 A I contacted him.

9 Q Did anyone instruct you to contact Mr.  
10 Ben-Veniste?

11 A No.

12 Q Do you know why you contacted Mr. Ben-  
13 Veniste?

14 A I contacted him as a courtesy, to notify  
15 him that the billing records were being transmitted  
16 to the Senate momentarily.

17 Q You don't recall having any discussion  
18 with Mr. Ben-Veniste about the White House's response  
19 with regard to the discovery of these billing  
20 records?

21 A No.

22 Q Or strategy with regard to the response of

1 the White House with regard to the billing records?

2 A No.

3 MR. WITTEN: This is one strange  
4 proceeding you guys have got going here.

5 BY MR. GIUFFRA:

6 Q What I'd like to now focus your attention  
7 to is the subject of communication with third parties  
8 about the location and existence of billing records.

9 Prior to the discovery of these particular  
10 records on January 4, 1996 -- you became special  
11 counsel to the President when? Strike that.

12 When did you join the White House staff?

13 A I was on the White House staff for a  
14 period of time in 1994, from about mid-April to mid-  
15 October. Then I returned to the White House staff on  
16 January 1 or 2, 1995, and I've been there ever since.

17 Q Prior to January 4, 1996, did you have any  
18 communications with non-White House personnel about  
19 Rose billing records?

20 A About Rose billing records that weren't  
21 made public by the House?

22 Q Assume that caveat.

1 A No.

2 Q So the only communications that you had  
3 with anyone prior to the discovery of these records  
4 on January 4 would relate to the billing record the  
5 House made public in the course of its hearings in  
6 the summer of 1995?

7 A I didn't say I had discussions with anyone  
8 ever outside the White House, third parties, about  
9 Rose billing records ever.

10 Q So you've never had communication with  
11 anyone outside the White House about Rose billing  
12 records?

13 A I've never had communications about the  
14 discovery or about the document, the Rose billing  
15 records, that were not public. But then you said,  
16 "So then the only billing records you have had  
17 communications with." And all I'm saying is that you  
18 didn't ask me whether I had communications.

19 You can't back into the question that way.  
20 Now you want to ask me if I had communications with  
21 people about Rose billing records that were made  
22 public in the summer of '95, which is specifically

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1 what we said we weren't going to talk about. But I  
2 think it's a waste of time to even get into this,  
3 because I don't believe I had any such conversations.

4 Q You don't believe you had any conversation  
5 with any third parties about Rose billing records  
6 prior to January 4, 1996. Is that your testimony?

7 A About?

8 Q I'm asking the question about Rose billing  
9 records generally. I'm not putting any qualifiers on  
10 it about location, existence, or anything.

11 A Okay, so we're now off the agreement we  
12 reached yesterday?

13 Q Jane, you keep saying there was an  
14 agreement.

15 A You said you would get back to me last  
16 night if there was a disagreement, and you never  
17 called.

18 Q That is a misstatement.

19 MR. WITTEN: Did you call?

20 MR. GIUFFRA: I certainly did not agree to  
21 anything.

22 MR. WITTEN: All right. So --

1 MR. GIUFFRA: I think the record should  
2 reflect that. I'm sure this will come up at the  
3 hearing on Thursday.

4 No agreement was reached. There was a  
5 discussion of everyone's position with regard to what  
6 the scope of the depositions would be. We said that  
7 we would try to see if we could avoid disputes, but  
8 certainly there was discussion at the hearing of the  
9 fact that there may well be disputes. And in fact,  
10 there was a discussion -- excuse me -- at the meeting  
11 of the fact that there may be disputes. Because  
12 there was discussion at the meeting about whether  
13 people would assert privilege at the hearing, and I  
14 specifically said during the meeting that we  
15 certainly were not going to foreclose the possibility  
16 that people might be asserting privilege during the  
17 hearing.

18 THE WITNESS: Neal Kravitz said at the end  
19 of that meeting, "Let's figure out now where the  
20 areas of disagreement are, so we don't have to have a  
21 public spectacle..." -- which appeared to be what you  
22 wanted -- "...about the assertion of privileges. We

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1 want to avoid that, so let's agree now."

2 You said that we couldn't agree, because  
3 you had to think about it. And I said that I thought  
4 the whole two hours had been a complete waste of  
5 time, and that you had been meeting in bad faith if  
6 you couldn't reach some sort of an understanding.  
7 You said that the only point you wanted to reserve on  
8 was this one we're dealing with right now: was  
9 whether or not you were going to inquire beyond the  
10 newly discovered billing records insofar as I may  
11 have had conversations with third parties.

12 You said you would consider it, and that  
13 you would get back to me by the end of the day, which  
14 you failed to do.

15 MR. GIUFFRA: That was not what happened  
16 in the meeting. Doug, you were at the meeting. Do  
17 you recall that communication or discussion?

18 MR. NAPPI: I recall a discussion about  
19 the possible meeting today, prior to the deposition.

20 MR. GIUFFRA: Certainly no agreement was  
21 reached.

22 THE WITNESS: If you had any problems that



1 needed to be discussed, you never called.

2 MR. BEN-VENISTE: Obviously there hasn't  
3 been any notification of problems about the agreement  
4 reached at the meeting or the understanding reached  
5 at the meeting.

6 MR. GIUFFRA: There was no understanding  
7 reached at the meeting.

8 MR. BEN-VENISTE: Mr. Kravitz isn't here.  
9 Unfortunately, I was not at the meeting, and it's  
10 obvious that we're going to waste all of this time  
11 because there is a dispute about what was agreed to.  
12 The agreements have to be recorded somehow, but the  
13 issue is one of notification so that witnesses can be  
14 prepared to address issues, and I think that's quite  
15 reasonable.

16 The point which was made, which has come  
17 up before, on whether there would be some attempt to  
18 embarrass witnesses by springing questions on them at  
19 the hearings on the issue of revocation of privilege,  
20 given the political context of that, is well-taken.  
21 That's why I think it is useful for the parties to  
22 try to narrow the issues, as the Chairman has asked

1 us repeatedly to do to the fullest extent possible.

2 Why don't we proceed?

3 MR. WITTEN: Here's my suggestion.

4 Let's put aside, at least for now,  
5 communications concerning the documents, the Rose  
6 billing documents, that were produced at the House  
7 hearings. Just put that aside for now.

8 You can ask, I take it, anything you want  
9 about anything else. When you get done doing that,  
10 if you want to ask some questions about what I'm  
11 putting aside, we'll decide at that point.

12 BY MR. GIUFFRA:

13 Q Let's put the discussions you might have  
14 had about -- just strike that.

15 There were a number of billing records  
16 that were introduced at the House hearings, correct?  
17 Just so we can identify the universe we're talking  
18 about.

19 A I know there were billing records that  
20 were made public in the course of the House hearings.  
21 I also know that this Committee made billing records  
22 public in the course of hearings in the fall.



1 Q We're only talking about a handful of  
2 billing records, is that right?

3 MR. WITTEN: They are what they are.

4 BY MR. GIUFFRA:

5 Q Do you have any understanding as to the  
6 extent of the billing records we're talking about?  
7 It's about a handful?

8 MR. BEN-VENISTE: That's already been  
9 asked.

10 THE WITNESS: I don't know how many there  
11 were.

12 BY MR. GIUFFRA:

13 Q You would agree that it was a small amount  
14 of billing records?

15 A Right. I would agree that all those  
16 billing records constitute a small amount of billing  
17 records.

18 Q Including the records that were found in  
19 the residence?

20 A Yes.

21 Q Would you say it was less than 10 pieces  
22 of paper?

1 A I don't know. I've never reviewed it.

2 MR. WITTEN: It is what it is. You have a  
3 hearing. It's got transcripts. They're marked as  
4 exhibits. It's 10 of 7:00.

5 BY MR. GIUFFRA:

6 Q Other than communications about billing  
7 records that were made public in congressional  
8 hearings, did you have any discussions about Rose  
9 billing records with anyone prior to January 4, 1996?

10 A With third parties?

11 Q Yes.

12 A No. Not that I can recall.

13 Q By "third parties," I mean persons who  
14 don't work at the White House.

15 A I exclude David Kendall from that.

16 Q Okay.

17 Other than Mr. Kendall and White House  
18 employees, it's your testimony that you did not have  
19 any discussions prior to January 4, 1996 about Rose  
20 billing records other than billing records made  
21 public at congressional hearings?

22 There are so many caveats in that --

1       A    Yes, I know. I cannot recall any  
2 discussions with anyone other than Kendall or White  
3 House employees about Rose billing records, other  
4 than those that were made public in House and Senate  
5 hearings.

6       Q    So you would not have spoken with anyone  
7 at the Rose Law Firm about those billing records  
8 prior to January 4, 1996?

9       A    No.

10      Q    You would not have spoken to Mr. Hubbell  
11 about Rose billing records prior to January 4, 1996?

12      A    And it's the same category of Rose billing  
13 records, I assume?

14           (Discussion off the record.)

15           THE WITNESS: Bob, why don't we just try  
16 and cut through this.

17           I don't recall any conversations with any  
18 third parties other than David Kendall about Rose Law  
19 Firm billing records prior to January 4, 1996.

20           BY MR. GIUFFRA:

21      Q    Have you ever had any communications with  
22 Mr. Hubbell on anything having to do with the Rose

1 Law Firm?

2       A    No.

3       Q    Do you know whether Mr. Kendall -- strike  
4 that.

5           Do you know whether Mr. Hubbell -- strike  
6 that.

7           Has anyone ever advised you that Mr.  
8 Hubbell possessed Rose billing records during the  
9 1992 presidential campaign?

10      A    I heard Susan Thomases' testimony that she  
11 believed that he had billing records when she had a  
12 conversation with him during the campaign. Beyond  
13 what has been publicly elicited in your hearings, no.

14      Q    Have you had any communications with Ms.  
15 Thomases about just the Rose Law Firm generally prior  
16 to January 4, 1996?

17      A    No. Wait. I may have had one  
18 conversation with her where she told me about some  
19 work she had done with the Rose Law Firm, or she was  
20 called in to do -- a management seminar at the Rose  
21 Law Firm years and years ago.

22           That would have been a conversation about

1 the Rose Law Firm.

2 Q Do you know a man named Alston Jennings?

3 A No.

4 (Pause.)

5 Q I show you a record, Senate 20085, that  
6 indicates that Mr. Alston Jennings was at the  
7 residence on August 10, 1995 to visit the First Lady.

8 (Document handed to witness.)

9 BY MR. GIUFFRA:

10 Q You don't have any knowledge as to why he  
11 went there?

12 A No.

13 Q I show you another billing record. This  
14 indicates that on July 24, 1995 --

15 A You mean "movement record."

16 Q Movement record. Excuse me.

17 This has a Bates number, 20052. It  
18 indicates that you were in the residence at 12:30 and  
19 left at 12:48 on 7/24/95. Do you know why you might  
20 have been there?

21 A Yes.

22 Q Why were you at the residence?

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1 A Why don't you try and restate that  
2 question so you ask it in a way that's relevant to  
3 the Committee's investigation? If you want to ask me  
4 if I was there, I'm prepared to answer the question  
5 if you ask me if I was there in connection with  
6 anything to do with the personal financial records of  
7 the Clintons.

8 Q Because three people objected here. The  
9 question is simple.

10 Do you know why you were at --

11 MR. BEN-VENISTE: Why don't you just  
12 answer the question, and you can make it clear.

13 MR. WITTEN: The only question he's asked  
14 is, do you know why you were there? And the answer  
15 to that is --

16 THE WITNESS: Yes, I know why I was there.

17 BY MR. GIUFFRA:

18 Q Do you know why you were at the residence  
19 on July 24, 1995?

20 MR. WITTEN: Answer that in a way you deem  
21 appropriate.

22 THE WITNESS: I was there in connection

1 with an inquiry related to personal financial records  
2 of the Clintons.

3 BY MR. GIUFFRA:

4 Q Did those personal financial records have  
5 anything to do with the subject matter specified in  
6 Senate Resolution No. 120?

7 A None whatsoever.

8 Q Was Nancy Hernreich with you on July 24,  
9 1995, when you visited --

10 MR. WITTEN: She's already testified it  
11 had nothing to do with Senate Resolution No. 120.

12 MR. GIUFFRA: Ms. Sherburne's view as to  
13 what is within Senate Resolution 120 and the  
14 Committee's view as to what is within Senate  
15 Resolution 120 may be different.

16 MR. BEN-VENISTE: Therefore, what?

17 THE WITNESS: Therefore I need to answer  
18 whether I was with Nancy Hernreich. I was not with  
19 Nancy Hernreich.

20 MR. BEN-VENISTE: Do you have much further  
21 to go, Bob?

22 MR. GIUFFRA: Just a few more things.

1 BY MR. GIUFFRA:

2 Q I show you a record that bears Bates  
3 number 20328, August 11, 1995. It indicates that Mr.  
4 Barnett and Ms. Williams were in the residence.

5 (Document handed to witness.)

6 BY MR. GIUFFRA:

7 Q Do you have any understanding as to why  
8 they were in the residence on this particular day?

9 A No.

10 Q Have you attempted to ascertain why they  
11 were in the residence on that particular day?

12 A Since January 5?

13 Q Yes.

14 A Yes.

15 Q Have you determined why they were in the  
16 residence on August 11, 1995?

17 A I have no personal knowledge. I wasn't  
18 there. I didn't go with them. So if you want to ask  
19 me a question about my personal knowledge, I'm  
20 prepared to answer it.

21 If you want to ask me about my work  
22 product in the counsel's office, that's a different



1 matter. And I know you're going to be deposing  
2 Maggie Williams. So why don't you ask her?

3 Q Has the White House tried to conduct an  
4 investigation to determine the circumstances  
5 surrounding the discovery of the billing records in  
6 the book room?

7 A No.

8 Q Has the White House attempted to conduct  
9 an investigation in terms of persons who might have --  
10 strike that.

11 Do you have any understanding as to why  
12 Mr. Barnett and Ms. Williams were present on August  
13 11, 1995?

14 MR. WITTEN: She already answered that.

15 MR. GIUFFRA: She said she doesn't have  
16 personal knowledge.

17 BY MR. GIUFFRA:

18 Q Has anyone told you -- the word  
19 "understanding." Has someone told you why they were  
20 present?

21 A I have a general understanding that,  
22 without waiving any work product privileges, if

1 you'll agree with that, I'll tell you what my general  
2 understanding is.

3 Q That's fine.

4 A My general understanding is that they were  
5 there discussing matters related to Mrs. Clinton's  
6 work.

7 Q A record bearing Bates number 20073,  
8 indicating that on 7/26/95, Cassandra Pulley and  
9 Maria E-c-h-a-v-e-s-t-e and Jim Lyons saw the First  
10 Lady in the residence. Approximately 6:38 was the  
11 arrival time.

12 (Document handed to witness.)

13 BY MR. GIUFFRA:

14 Q Do you know why they might have been  
15 there?

16 A No.

17 (Pause.)

18 Q Are you aware of a report of investigation  
19 that was issued by the RTC Office of Inspector  
20 General dated August 3, 1995?

21 MR. WITTEN: Is that what you're holding?

22 MR. GIUFFRA: Yes.

1 (Document handed to witness.)

2 THE WITNESS: I have become aware of this.  
3 I don't believe I've ever seen a copy of it before.  
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1 BY MR. GIUFFRA:

2 Q Let me show you a newspaper article dated  
3 August 5, 1995 from the Washington Post. "Report  
4 Reveals Rose Firm Role In Land Deal," by Susan  
5 Schmidt.

6 (Handing document to witness.)

7 MR. WITTEN: Do you want her to read this?

8 BY MR. GIUFFRA:

9 Q To save some time, have you ever seen this  
10 article before?

11 A Yes, I believe I saw it at the time. When  
12 did the hearings end last summer?

13 Q I think August 20th.

14 A Okay. Yes, I believe I saw this at the  
15 time.

16 Q Do you recall discussing, between August  
17 3rd and August 15, 1995, the RTC IG report on the  
18 Rose Law Firm with anyone at the White House?

19 A No.

20 Q You don't recall discussing the RTC IG  
21 report with Mr. Ickes?

22 A No.

1 Q You recall receiving an August 25, 1995  
2 request for documents that Chairman D'Amato sent to  
3 then counsel to the President, Abner Mikva?

4 A Yes.

5 Q Could you just describe how you went about  
6 searching for documents responsive to that request?

7 A You can't be serious?

8 Q Were you the person at the White House in  
9 charge of responding?

10 A Why don't you ask me how we went about  
11 searching for Rose Law Firm billing records?

12 You know as well as I do that from  
13 August 25th forward, we had communicated to you  
14 repeatedly that we found your request  
15 incomprehensible and unmanageable, and that we had a  
16 series of negotiations over several weeks in which we  
17 attempted to narrow the request.

18 The request related to the Rose Law Firm  
19 billing records was finally defined in a way  
20 sufficient for us to search for it in your letter of  
21 October 17th.

22 Following that letter, we distributed a

1 White House-wide request on October 23rd, in which we  
2 sought Rose Law Firm billing records.

3 Q Was the October 25th memorandum, which  
4 bears Bates Number 20528 through 20529, the first  
5 White House-wide memo seeking Rose Law Firm billing  
6 records?

7 (Handing document to witness.)

8 THE WITNESS: I believe you said this was  
9 October 25th. It's October 23rd.

10 BY MR. GIUFFRA:

11 Q Excuse me, I apologize for the error.

12 A And this is not, as you know, prior to  
13 October 23rd, we had produced many records responsive  
14 to this request, but this was the first White House-  
15 wide request that followed your letter of  
16 October 17th, when you finally gave us the cutoff  
17 date description that we needed in order to do this  
18 search.

19 Q What steps did you take in the effort to  
20 locate Rose Law Firm billing records?

21 A Well, you've got the search request in  
22 front of you, which would have been the White House-

1 wide request. That was also elaborated on  
2 October 31st, I believe, after we got your subpoena.  
3 We also searched the counsel's office for what we had  
4 been referring to as primary source material. We  
5 searched the counsel's office because most of the  
6 primary source Whitewater material had already been  
7 collected in the counsel's office, and so there were  
8 files there that were likely to have material  
9 responsive to the earlier requests.

10 So we searched, prior to October 23rd,  
11 principally the counsel's office files, the files of  
12 the people from my team, and the files we had  
13 acquired in team for primary source material which we  
14 produced long before October 23rd.

15 Then on October 23rd, once we had the  
16 cutoff date with respect to our work product that you  
17 gave us on October 17th, we distributed the White  
18 House-wide request for the Rose Law Firm records.

19 Q The first White House-wide request would  
20 have been the October 23rd request, correct?

21 MR. WITTEN: She's already said that.

22 THE WITNESS: It is a little frustrating.

1 You've asked me the same question three times.

2 MR. GIUFFRA: I want the record to be  
3 clear.

4 THE WITNESS: You want the record to be  
5 muddled.

6 MR. GIUFFRA: I don't think so.

7 This is the first White House-wide  
8 request --

9 MR. WITTEN: It still is. It's been the  
10 first White House-wide request for the last ten  
11 minutes.

12 Let's move along. It's late and we're not  
13 prepared to stay very much longer.

14 MR. GIUFFRA: You're certainly free to  
15 leave if you want. If this deposition's not  
16 concluded, we'll deal with it at another time and in  
17 another forum.

18 BY MR. GIUFFRA:

19 Q Now this memo of October 31, 1995, which  
20 bears Bates number 20530 to 20531 indicates, in the  
21 first paragraph, quote:

22 The White House response to these requests



1 and therefore to the subpoena is largely complete  
2 eight days after the initial White House-wide  
3 request.

4 A I think the response date was November  
5 2nd. We got the subpoena on October 30th. The  
6 response date was November 2nd. But you're  
7 expressing surprise that we could have met one of  
8 your short turn around times. Yes. By October 31st,  
9 from August 25th forward, yes. We had provided  
10 almost all responsive records to you, so by the time  
11 you decided to issue your subpoena, you had almost  
12 everything you needed from your August 25th request,  
13 yes.

14 Q But the October 23rd memo was the first  
15 White House-wide request.

16 MR. WITTEN: Don't answer that question.  
17 She's answered it four times. At best  
18 you're arguing. At worst, you're just wasting time.  
19 Move along.

20 MR. GIUFFRA: Please lower your voice.

21 MR. WITTEN: I'm not going to lower my  
22 voice. You're abusing this witness. Now let's move

1 along.

2 MR. GIUFFRA: I think the record will  
3 reflect that you are engaging in improper conduct.  
4 We'll let the record speak for itself. And trying to  
5 prevent the Committee from ascertaining facts that  
6 are relevant to its investigation.

7 MR. WITTEN: Baloney. The fact, sir, that  
8 you are on a Government salary, does not entitle you  
9 to accuse people of obstructing anything. Just ask  
10 your questions, ask them once, get the answer and  
11 move along.

12 (Handing document to witness.)

13 BY MR. GIUFFRA:

14 Q With regard to the October 23, 1995 memo,  
15 do you know whether a copy of this memo was sent to  
16 Ms. Huber?

17 A Yes, I believe it was.

18 Q What's the basis for your belief that this  
19 memo was sent to Ms. Huber?

20 A She would have been on the distribution  
21 list if you look at the top of the memo. Why don't  
22 you give it back to me?

1 (Handing document to witness.)

2 THE WITNESS: It shows memorandum for all  
3 staff at the White House Office, which she would have  
4 been in the office. I see here you have highlighted  
5 the Correspondence Office can disregard this request.  
6 I believe you came back later and said that the  
7 personal correspondents could not disregard the  
8 request.

9 I'll have to look at one of your letters  
10 to determine that for sure. But I understand that  
11 Caroline Huber has said that she received this.

12 BY MR. GIUFFRA:

13 Q What's the basis for your understanding  
14 that Caroline Huber had received this?

15 A What I just said. I understand she said  
16 that. I don't know where I heard that. I don't know  
17 if she said it to me. I understand that she has said  
18 she received that memo.

19 MR. GIUFFRA: Let's go off the record.

20 (Discussion off the record.)

21 BY MR. GIUFFRA:

22 Q Did anyone from your office contact Ms.

1 Huber about the Senate document request?

2 MR. WITTEN: Other than by sending this  
3 letter?

4 BY MR. GIUFFRA:

5 Q Other than by sending the letter?

6 A I don't believe so. The document request  
7 would have gone to approximately 500 people.

8 Q So in responding to the Senate's document  
9 request, you were relying on written communication in  
10 the form of these memos, this memo?

11 A That was one form of reliance, yes.

12 Q What else did you do to comply with the  
13 document request?

14 A I've already told you that we searched the  
15 files in the counsel's office where most of the  
16 relevant material had already been collected. And  
17 responded with that material as well.

18 Q Then the Senate subsequently served a  
19 subpoena. I believe it was dated October 30. Then  
20 you sent out this memo on October 31 which would be  
21 the memo bearing Bates Number 20530 and 20531,  
22 correct?

1 A Correct.

2 Q Do you believe Ms. Huber received this  
3 memo?

4 A I don't know. I believe she should have.  
5 Let me look at --

6 (Pause.)

7 This doesn't have the exclusion that you  
8 permitted us to include in the October 23rd request,  
9 so I believe in the normal course of the  
10 distribution, she would have been on that  
11 distribution.

12 Q And again, would anyone have contacted Ms.  
13 Huber by telephone to ascertain whether she had the  
14 responsive documents?

15 A No.

16 Q Did anyone from your staff at any time  
17 search Ms. Huber's office in the East Wing of the  
18 White House for responsive documents?

19 A No.

20 Q So you were relying on Ms. Huber to search  
21 her own office?

22 A As we relied on the other 500 employees

1 who got this memorandum.

2 Q Now with regard to the President and Mrs.  
3 Clinton's documents, what steps did you take to  
4 search for Rose billing records among those  
5 documents?

6 A I'm not sure I understand what those  
7 documents refer to.

8 Q Let me rephrase the question.

9 Did you take any steps to search for  
10 documents responsive to the Senate subpoena that  
11 might be in the files of the President or the First  
12 Lady?

13 Let's just do that, official files.

14 A In their official files? The request  
15 would have gone to the Office of the President, the  
16 Oval Office Operations, to the staff that works  
17 there. The request also would have gone to the  
18 Office of the First Lady and the employees in that  
19 office. And so those individuals would have reviewed  
20 and searched the relevant files, the official files.

21 Q Persons in those offices?

22 A That's correct.

1 Q What about documents that might be  
2 responsive to the Senate subpoena that were within  
3 the residence of the President and Mrs. Clinton?

4 A I wouldn't regard documents in the  
5 residence of the President and Mrs. Clinton as  
6 responsive to the Senate subpoena.

7 Q Why would you not regard documents  
8 contained in the President and Mrs. Clinton's  
9 personal residence as responsive to the Senate  
10 subpoena?

11 A Because I would regard them as personal  
12 records and not White House records. And the  
13 subpoena called for White House records. It was  
14 served on the White House.

15 Q So then, in searching for documents, you  
16 draw the distinction between documents that might be  
17 contained in the personal residence and elsewhere in  
18 the White House complex?

19 A It's more of a distinction between  
20 personal records and official records. I know you  
21 sent a similar request to David Kendall, and so I  
22 believe to the extent that there may have been any

1 personal records in the residence responsive to any  
2 of the Committee requests, those would have been  
3 records that Mr. Kendall would have searched for.

4 Q Do you have any understanding as to the  
5 steps that Mr. Kendall took to search for Rose Law  
6 Firm records?

7 A No.

8 Q Do you know whether the President and Mrs.  
9 Clinton ever take official papers to the residence?

10 A I don't know.

11 Q I think you testified before that you've  
12 had communications with Mr. Kendall about Rose  
13 billing records. Is that correct? Other than  
14 records that have been made available in  
15 Congressional hearings?

16 A Yes.

17 Q What communications have you had with Mr.  
18 Kendall about Rose billing records?

19 A I would regard those communications as  
20 privileged.

21 Are you talking about the discovery or the  
22 existence of Rose records?



1 Q I think you've already testified about  
2 communications you had with Mr. Kendall about the  
3 discovery of the records?

4 A Right.

5 Q So my question is, prior to the discovery  
6 of the records, did you have any, on January 4th,  
7 1996, did you have any communication with Mr. Kendall  
8 about Rose billing records.

9 I believe your testimony was you had.

10 A About Rose billing records other than  
11 those that were made public?

12 Q I'll put that caveat in.

13 A Which would necessarily have been a  
14 conversation about the existence of Rose billing  
15 records because if they didn't exist, we couldn't  
16 have talked about them.

17 So, yes, we did have conversations about  
18 the existence of Rose Law Firm billing records.

19 Q Do you recall when you had those  
20 conversations?

21 A No.

22 Q Do you recall anything about the substance

1 of those conversations you had with Mr. Kendall about  
2 the existence of Rose billing records?

3 A This is another area where I'm not sure I  
4 have the authority to waive privileges. I don't know  
5 if I can or can't answer that. But if you intend to  
6 pursue it at the hearing, I'll find out.

7 MR. GIUFFRA: Off the record.

8 (Discussion off the record.)

9 (Recess.)

10 (Readback.)

11 THE WITNESS: We've consulted, and I  
12 believe this question goes to the conduct that you're  
13 inquiring about which is efforts to search for  
14 records, and so I believe it is within the scope of  
15 what we said we would be willing to waive and talk  
16 about.

17 So the answer to your question, which I  
18 believe was, do I remember anything about the  
19 substance of the communications with Kendall about  
20 the non-public Rose Law Firm billing records.

21 The answer to that question is, yes, I do.

22 BY MR. GIUFFRA:

1 Q What do you recall about the substance of  
2 the conversation with Mr. Kendall about those Rose  
3 billing records?

4 A The conversation was to try and understand  
5 what records were missing. And Mr. Kendall told me,  
6 at some point along the way, that there were some  
7 Rose Law Firm Madison bills that were available. And  
8 I knew that from what I'd seen in the House. But  
9 that what the Rose Law Firm did not have was the  
10 underlying attorney detail for the bills.

11 Q Did Mr. Kendall indicate to you that he  
12 had been in communication with the Rose Law Firm in  
13 an effort to try to locate Rose billing records?

14 A No.

15 Q Can you recall anything more about the  
16 substance of your communications with Mr. Kendall  
17 with regard to Rose billing records, qualifier.

18 A Other than those that were made public?

19 Q By Congress.

20 A And this was at any time prior to their  
21 discovery on January 4th?

22 Q Right.

1 A No.

2 Q Do you recall any communications you might  
3 have had with anyone else at Williams & Connolly  
4 about the substance --

5 Strike that.

6 Did you have any conversations with anyone  
7 else at Williams & Connolly about non-public Rose Law  
8 Firm billing records prior to January 4, 1996?

9 A Not that I recall.

10 Q During the course of the conversation you  
11 had with Mr. Kendall, did the subject of Castle  
12 Grande come up, or IBC?

13 A I don't believe so.

14 Q Do you recall any discussions --  
15 Strike that.

16 Have you seen a document?

17 A I don't believe -- some of it may have.

18 Q Do you have any recollection as to the  
19 context in which Castle Grande or IDC arose?

20 MR. WITTEN: May have.

21 BY MR. GIUFFRA:

22 Q May have arisen in your discussion with

1 Mr. Kendall?

2 MR. WITTEN: Concerning the billing  
3 records of the Rose Law Firm.

4 THE WITNESS: One of the bills reflected  
5 IDC work, one of the public bills.

6 BY MR. GIUFFRA:

7 Q Was this the January 30, 1996 bill?

8 A I don't remember.

9 Q This would be a bill that bears Bates  
10 Number 29010.

11 (Handing document to witness.)

12 THE WITNESS: Is this the one the  
13 Committee used in the fall?

14 MR. GIUFFRA: This is off the record.

15 THE WITNESS: No, we can keep it on.  
16 It'll place the conversation.

17 I know that there was an IDC bill, I think  
18 it was this one that the Committee used in the fall.  
19 I may have had a conversation with Kendall about  
20 where the underlying attorney detail was in  
21 connection with this bill, and I don't know if we  
22 discussed Castle Grande or IDC in that context or

1 not. We may have.

2 BY MR. GIUFFRA:

3 Q Did Mr. Kendall indicate to you that he'd  
4 undertake an effort to try to locate the so-called  
5 billing memorandum that's related to that bill?

6 A I don't remember if we discussed that.  
7 (Pause.)

8 Q Have you had any other discussions with  
9 Mr. Kendall about efforts to respond to the Senate  
10 subpoenas?

11 A Any Senate subpoena?

12 Q Relating to Whitewater or Madison.

13 MR. WITTEN: You're asking her for any  
14 other conversations with David Kendall ever about  
15 any?

16 MR. GIUFFRA: No. Efforts to locate  
17 documents responsive to Senate subpoenas relating to  
18 Whitewater Madison. I'm trying to be broad so we can  
19 conclude the deposition.

20 THE WITNESS: I probably did. I don't  
21 recall any specifically.

22 BY MR. GIUFFRA:

1 Q Is there any sort of, just so we have the  
2 demarcation with regard to searches, if it's in the  
3 residence of the White House, it's Mr. Kendall's  
4 responsibility?

5 Anywhere else, it would be the White House  
6 Counsel's responsibility in terms of responding to  
7 the subpoena?

8 A Well, anywhere else?

9 Q In the complex?

10 A No. We would have regarded White House  
11 records as the ones that the White House counsel's  
12 office was responsible for locating and producing.

13 Personal records of the Clintons' would  
14 have been records that Mr. Kendall would have been  
15 responsible for producing.

16 Q If there's a document located in the  
17 official residence that has not denominated official  
18 or personal, who'd be responsible for searching the  
19 residence, Mr. Kendall, correct?

20 A That's right.

21 Q Has any agent, yourself, or anyone else i  
22 the White House Counsel's Office ever conducted a

1 document search, search for documents in the  
2 residence of the White House?

3 A No.

4 Q As far as you know, Mr. Kendall has  
5 conducted such searches?

6 I'll restate the question.

7 Do you know whether Mr. Kendall has ever  
8 searched for documents responsive to the Senate  
9 subpoena in the White House residence?

10 A I'm not familiar with the steps Mr.  
11 Kendall took to respond to the Senate subpoena. I  
12 know that he produced 30,000 documents from  
13 somewhere, but I suspect he had already collected  
14 most of those documents in his law firm by the time  
15 your Senate subpoena arrived.

16 Q Let's just exclude responding to the  
17 Senate subpoena.

18 Do you know whether Mr. Kendall has ever  
19 conducted a search for documents in the White House  
20 residence, for documents that might be responsive to  
21 the Senate subpoena even prior to the service of that  
22 subpoena?



1 A I'm not sure I understand. You said it  
2 doesn't relate -- excluding the subpoena? Responsive  
3 to the subpoena? Are you talking about the August  
4 25th or whatever letter he got?

5 MR. WITTEN: Can't we ask what Mr. Kendall  
6 did?

7 MR. GIUFFRA: I'm going to ask Jane what  
8 Mr. Kendall may have told her he did.

9 BY MR. GIUFFRA:

10 Q Do you have some understanding that Mr.  
11 Kendall may have responded to the Senate subpoena and  
12 may have relied on searches that he may have  
13 conducted to other subpoenas by other investigatory  
14 agencies?

15 A I don't have much of an understanding at  
16 all about how Mr. Kendall went about his document  
17 searches.

18 Q Do you have any understanding as to how  
19 Mr. Kendall undertook his document searches just with  
20 regard to the White House residence?

21 A The only thing I know is that there was a  
22 period of time when members of Mr. Kendall's law firm

---

1 reviewed documents in the residence that had been  
2 collected there. And I don't know much more than  
3 that.

4 Q Do you know any more about that process?

5 A No. Other than that documents were  
6 collected from various parts and that he worked  
7 closely with Caroline Huber. And that the review  
8 process took a couple weeks.

9 Q Do you know when this review process  
10 occurred?

11 A I think it was the summer of '94 at some  
12 point.

13 Q Did you have any communication with Ms.  
14 Huber about this review process?

15 A No.

16 Q Have you ever had any discussions other  
17 than on January 4, 1996 with Ms. Huber about  
18 collecting documents that might be responsive to  
19 subpoenas issued by investigatory agencies bearing on  
20 Whitewater and related matters?

21 A I don't believe so.

22 (Pause.)

1 Q Just so the record is clear, with regard  
2 to the October 23 memo, you believe Ms. Huber  
3 received a copy of it because she had not been carved  
4 out of the letter as I sent it?

5 MR. WITTEN: Excuse me, Jane. To be  
6 repeating what you've said at least twice.

7 THE WITNESS: I believe she received a  
8 copy because I heard from some source that I cannot  
9 remember that she said she received a copy.

10 BY MR. GIUFFRA:

11 Q Someone's told you that Ms. Huber received  
12 a copy of the documents in response to this memo?

13 A Someone's told me what?

14 Q Someone has told you Ms. Huber received  
15 this memo and looked for documents?

16 MR. WITTEN: Bob, this is at least the  
17 fourth --

18 THE WITNESS: I didn't say that. Nobody  
19 told me. I said that somebody told me that she had  
20 received it. Nobody told me anything about whether  
21 she looked for documents, so don't characterize my  
22 testimony.

1 BY MR. GIUFFRA:

2 Q Who told you?

3 A I don't remember who told me.

4 MR. WITTEN: You've asked her, she's  
5 answered it.

6 (Pause.)

7 BY MR. GIUFFRA:

8 Q What steps were taken to look for  
9 responsive documents that might have been contained  
10 in the files of former White House employees?

11 A What steps were taken to find billing  
12 records?

13 Q Just documents generally.

14 A It depends on what request, what subpoena.  
15 There's an Office of Records Management and for the  
16 request where you specifically identified the people  
17 who you're interested in, we'd ask Records Management  
18 to search their files.

19 Q Does Records Management, if someone leaves  
20 the White House, are they allowed to take some  
21 documents with them?

22 A Well, there's a Presidential Records Act

1 that identifies what people can --

2 Q Take and not take?

3 A I think you can take copies, but I think  
4 you have to leave certain categories of documents in  
5 the White House and send it to Records Management.  
6 So our document request typically would go to Records  
7 Management and they could search the relevant files.

8 Q So personnel from the White House  
9 Counsel's Office would not be involved in that  
10 search?

11 A Sometimes they have been because sometimes  
12 some of your requests have retrieved like 150 or 180  
13 boxes, and Records Management only has I think two  
14 employees or three employees that do this work.

15 So sometimes they would say, we've got 180  
16 boxes we need to go through. You say you want it by,  
17 you know, one of your five-day turn around times. We  
18 can't possibly do that unless you send us some help.

19 So sometimes the counsel office lawyers  
20 would participate in that review.

21 (Pause.)

22 Q You indicated that one of the primary

1 means by which you search for documents in response  
2 to the Senate subpoena was to search documents that  
3 the counsel's office had collected in response to  
4 other subpoenas by other investigatory agencies?

5 A No. I didn't say why we collected them.  
6 I think I said that we had collected the relevant  
7 universe of documents in the course of doing the  
8 work. Some of it certainly would have been in the  
9 course of responding to other document requests.

10 Q What steps did you take to respond  
11 generally to other document requests or subpoenas  
12 that were served relating to Whitewater or related  
13 matters?

14 A I'm sorry, what? From the Senate?

15 Q No.

16 MR. WITTEN: The world.

17 Literally, the question is what did you do  
18 to respond to any requests that the White House got  
19 from anybody in the world, other than the Senate.

20 THE WITNESS: The steps generally would be  
21 similar to the ones described in that October 23rd  
22 memo.

1 BY MR. GIUFFRA:

2 Q So your normal practice would be to send a  
3 White House-wide memo or memos to persons who would  
4 have potentially --

5 Let's just strike that.

6 You'd send a White House-wide memo?

7 MR. WITTEN: Bob, excuse me. She's  
8 already testified to this at length. It's quarter to  
9 8:00.

10 Every time you attempt to recharacterize  
11 it, you get it wrong. Then we have to cross the  
12 process where we have to correct you. And you  
13 recharacterize it again, and ask it for a third or  
14 fourth or fifth time, get it wrong again.

15 She's testified to the procedures.

16 Now the characterization you were in the  
17 process of making when I interrupted you was not a  
18 complete or accurate description of what she said,  
19 and I'm not going to sit here at quarter of 8:00 and  
20 have her explain it to you again.

21 If you want to muddy the record, you're  
22 doing a fine job of it.

1 If you want a straight record, you will  
2 not attempt to characterize what the witness has  
3 said.

4 MR. GIUFFRA: The record will reflect that  
5 you are the one that's muddying the record.

6 BY MR. GIUFFRA:

7 Q What I am trying to ascertain is the  
8 following:

9 One, I believe, Ms. Sherburne, you've  
10 testified --

11 MR. WITTEN: Don't characterize her  
12 testimony. Ask questions and let's get out of here.  
13 Every time you characterize her testimony, you get it  
14 wrong.

15 MR. GIUFFRA: I'm the one asking the  
16 questions. You're free to object if you want.  
17 You're free to instruct Ms. Sherburne not to answer  
18 the questions. Consequences will flow from both of  
19 those acts.

20 BY MR. GIUFFRA:

21 Q In responding to the Senate subpoena, you  
22 looked through files which reflected documents you



1 collected in response to other searches.

2 A Wait a minute, wait a minute.

3 I don't want to make a categorical  
4 statement about responding to the Senate subpoena,  
5 Bob, because we did lots of different things to  
6 respond to the Senate subpoena over time.

7 I'm comfortable talking about the billing  
8 records and what we did to respond to the billing  
9 records. And it was the two. We did the White  
10 House-wide request, two of them. And we did the  
11 search of the records that we had already collected  
12 for a variety of reasons within the counsel's office  
13 for the so-called primary source material that we  
14 started producing to you, you know, in September.

15 Q My question, how did you go about  
16 collecting the so-called primary source material?

17 A Okay. That was material we had already  
18 collected in the counsel's office. It was material  
19 from my files, material from David Fein's files,  
20 material from Shiela Chesten's files, material from  
21 Neil Eggleston's files, material from Bruce Lindsey's  
22 files, people in the counsel's office who, at the

1 time we were looking at this, you know, and into the  
2 past, as in the case of someone like Neil Eggleston  
3 who had collected their own library, if you will, of  
4 relevant Whitewater materials. Those were the files  
5 we searched. We had boxes of those kinds of  
6 materials and file drawers of those kinds of  
7 materials that we looked through in September and the  
8 beginning of October, to try and respond to the  
9 request, at least as it had been articulated at that  
10 time.

11 Q Did the primary source material also  
12 consist of documents that you had gathered by  
13 searching the offices of White House employees in  
14 response to subpoenas or document requests by other  
15 investigatory agencies?

16 A Normally what we do, when we do a document  
17 production, is that we retain a set of the documents.  
18 And so for any document production we've done, for  
19 example, the White House Treasury contact documents  
20 that we had produced to you guys in the summer of  
21 '94, we would have looked through those documents to  
22 see if there were any primary source materials that

1 were responsive to your requests.

2 So I believe we would have looked through,  
3 as I said, all the documents that were in the  
4 possession of the counsel's office that our team  
5 essentially had responsibility for.

6 MR. WITTEN: Including those gathered  
7 previously for any purpose whatsoever.

8 THE WITNESS: Right.

9 MR. GIUFFRA: That was my question.

10 BY MR. GIUFFRA:

11 Q The primary source materials would include  
12 document productions that the White House had made in  
13 response to subpoenas and document requests by other  
14 investigatory agencies?

15 A Yes.

16 Q In responding to subpoenas and document  
17 requests by other investigatory agencies, did White  
18 House counsel personnel themselves search for records  
19 within the relevant files?

20 A I think I already said that the practice  
21 we followed was similar to the practice that we used  
22 in the October 23rd memo, unless there would have

1 been a targeted focused request. Sometimes you've  
2 come to us with requests for, say, all the phone  
3 messages between Bruce Lindsey and somebody else.

4 MR. WITTEN: This question relates to  
5 requests to somebody other than the Senate?

6 THE WITNESS: Well, the House. The House  
7 asked that if they had a focused targeted request,  
8 our participation in the search would be different  
9 than what is reflected in this October 23rd in the  
10 practice that's embodied in this October 23rd memo.

11 So it depends on the request. When you  
12 say any other request, I can't answer the question  
13 broadly.

14 BY MR. GIUFFRA:

15 Q Would the primary source material  
16 encompass productions of documents by the White House  
17 in response to subpoenas of Independent Counsel?

18 A You just don't give up, do you?

19 Yes, it would.

20 (Pause.)

21 MR. WITTEN: It's ten of 8:00. How long  
22 do you intend to proceed.

1 MR. GIUFFRA: Almost done.

2 BY MR. GIUFFRA:

3 Q Do you know of any instance in which  
4 anyone from the White House Counsel's Office has ever  
5 searched Ms. Huber's East Wing office?

6 MR. WITTEN: Prior to January 4?

7 BY MR. GIUFFRA:

8 Q Prior to January 4, 1996.

9 A No, I don't.

10 Q Have you ever informed the First Lady --  
11 Strike that.

12 Did you inform the First Lady of the  
13 Senate's document request dated August 25, 1995?

14 A No.

15 Q Did you inform the First Lady of the  
16 Senate subpoena of October 30, 1995?

17 A Are you asking these questions in terms of  
18 me personally and her personally, or her office and  
19 the counsel's office?

20 Q You personally.

21 A No.

22 Q Do you know if the First Lady was advised

1 of the documents sought by the Senate in its document  
2 request dated August 25, 1995?

3 A I don't know. Does that request mirror  
4 what Kendall had?

5 Q Not exactly.

6 A I did not personally advise her of the  
7 August 25th request.

8 Q Did anyone in your office advise her of  
9 the August 25th request, send her a copy?

10 A Personally?

11 Q Yes.

12 A Not that I'm aware of.

13 Q Your communication with the First Lady  
14 would just have been with her office, and what was  
15 routed to her office you just don't know about?

16 A It would have been with the individual  
17 employees in her office.

18 Q But not directly to the First Lady?

19 A It would have gone to the office of the  
20 First Lady. You know, I'm not actually positive  
21 about that. I'd have to look at the distribution  
22 list to see if there's one that would specifically,

1 if there's a label specifically for her. I'm not  
2 sure.

3 Q With regard to the Senate subpoena, would  
4 you know whether she would have received a copy of  
5 either the subpoena or of the memo of October 31,  
6 1985?

7 A Of the subpoena or of the memo, either  
8 one? I don't know.

9 (Pause.)

10 Q Have you had any discussions with Margaret  
11 Williams about Rose Law Firm billing records prior to  
12 January 4, 1996?

13 MR. WITTEN: You've asked this one  
14 already, sir.

15 MR. GIUFFRA: We did locations.

16 THE WITNESS: No, not that I recall.

17 BY MR. GIUFFRA:

18 Q The First Lady?

19 (Pause.)

20 A Yes.

21 Q When did you speak to the First Lady about  
22 Rose Law Firm billing records?

1 (Discussion off the record.)

2 THE WITNESS: I believe it probably would  
3 have been some time in June of '94.

4 BY MR. GIUFFRA:

5 Q Why do you believe it would have been in  
6 June 1994?

7 MR. WITTEN: Don't answer that question.

8 MR. GIUFFRA: You're instructing her not  
9 to answer the question?

10 MR. WITTEN: You heard what I said.

11 MR. GIUFFRA: Is this an assertion of  
12 privilege? Or is it because you don't like the  
13 question?

14 MR. WITTEN: That's a fair question.

15 I believe that the answer would  
16 necessarily involve testimony about an area that it  
17 is my understanding has been beyond the scope of your  
18 permissible inquiry.

19 MR. GIUFFRA: Please go off the record.

20 MR. IVEY: No.

21 MR. WITTEN: Just move along.

22 MR. GIUFFRA: You mean if Ms. Sherburne



1 had a discussion with the First Lady about Rose Law  
2 Firm billing records, how could that be beyond the  
3 scope of our inquiry?

4 MR. WITTEN: That's not the question you  
5 asked. The question you asked was how was she able  
6 to date.

7 The answer to that question I believe  
8 would require this witness to testify about areas  
9 that are beyond the scope of this inquiry. If asked  
10 other questions about this, our response may be  
11 different.

12 BY MR. GIUFFRA:

13 Q What do you recall about this  
14 communication you had with the First Lady about Rose  
15 Law Firm billing records in June, 1994.

16 A You're asking me about the substance of my  
17 communications with the First Lady?

18 Q Yes.

19 A I cannot answer. You're talking about the  
20 substance of Rose billing records, not missing  
21 records, not the existence of records, or the  
22 location of records, but the substance of records.

1 Q Why don't we try to just break it down?

2 MR. WITTEN: Good.

3 BY MR. GIUFFRA:

4 Q Did you discuss with Mrs. Clinton the  
5 location of the Rose Law Firm billing records?

6 A No.

7 Q Did you discuss with her the fact that  
8 there were missing Rose Law Firm billing records?

9 A Not that I recall.

10 Q Did you discuss with Mrs. Clinton the  
11 substance of her work as a lawyer at the Rose Law  
12 Firm?

13 MR. WITTEN: You can answer that yes or  
14 no.

15 THE WITNESS: Yes.

16 BY MR. GIUFFRA:

17 Q Did you discuss with Mrs. Clinton the  
18 substance of anything contained in the Rose billing  
19 records, or that might be contained in Rose billing  
20 records?

21 MR. WITTEN: Answer that yes or no.

22 THE WITNESS: Not that I recall. It's a

1 strange way to ask the question. I don't know what  
2 may or may not be reflected in Rose billing records.  
3 We weren't talking about missing Rose billing  
4 records.

5 BY MR. GIUFFRA:

6 Q Were you discussing Rose billing records?  
7 (Discussion off the record.)

8 THE WITNESS: I'm not going to disclose  
9 the substance of the communication. The subject of  
10 the communication was the fee recap. I don't know if  
11 you regard that as a billing record or not.

12 Bob, I'm not going to answer the questions  
13 about the substance of the communication.

14 BY MR. GIUFFRA:

15 Q Do you recall having discussions about the  
16 fee recap with anyone else in June 1994?

17 A Yes.

18 Q Who did you have discussions with in June  
19 of 1994 about the fee recap?

20 A I believe it would have been Mr. Kendall  
21 and David Fein.

22 Q When you spoke to the First Lady, who was

1 present at the meeting?

2 (Discussion off the record.)

3 MR. GIUFFRA: Why don't you read the  
4 pending question.

5 (Readback.)

6 THE WITNESS: I believe Mr. Kendall was  
7 present, and I believe David Fein may have been  
8 present as well.

9 BY MR. GIUFFRA:

10 Q Was the meeting in the White House  
11 residence or in Mrs. Clinton's office in the West  
12 Wing?

13 A It was in the residence.

14 Q Approximately how long did the meeting  
15 last?

16 A I don't remember.

17 Q More than an hour or less than an hour? A  
18 brief meeting, a long meeting?

19 A You're suggesting that the meeting was  
20 about that issue.

21 Q How long did the meeting take?

22 A I don't know. It could have been a couple

1 of hours.

2 Q Now did you have any other conversations  
3 with Mr. Kendall about the fee recap on those other  
4 occasions besides this meeting you had with the First  
5 Lady in June of 1994?

6 A I may have.

7 Q Do you know approximately how many  
8 communications you might have had with Mr. Kendall  
9 about the fee recap?

10 A It would have been few if it was any  
11 beyond that, this one that we've been talking about.  
12 It would have been very few.

13 Q And you would not have discussed the fee  
14 recap with anyone at the Rose Law Firm?

15 A No.

16 Q Or with Mr. Hubbell?

17 A No.

18 Q Or Mr. Kennedy?

19 A No.

20 Q Have you ever discussed anything to do  
21 with the Rose Law Firm billing records with William  
22 Kennedy?

1 (Pause.)

2 A I don't believe so.

3 Q Did you ever discuss anything having to do  
4 with the Rose Law Firm billing records with the  
5 President, other than the meeting on January 5, 1996?

6 A Not that I recall.

7 Q Did you ever discuss anything having to do  
8 with Rose Law Firm billing records with Mr. Ickes  
9 other than the conversations you've talked about on  
10 January 4 and 5, 1996?

11 A Not that I recall.

12 Q Did you ever discuss anything dealing with  
13 the Rose Law Firm generally with Mr. Ickes prior to  
14 January 5, 1996?

15 A I may have. I don't remember any specific  
16 conversations.

17 Q Okay. I'm almost done. I just want to go  
18 through this.

19 MR. WITTEN: Thank you.

20 (Pause.)

21 BY MR. GIUFFRA:

22 Q Were there any meetings organized to

1 coordinate a response to the Senate subpoena?

2 A Were there any meetings organized?

3 Q Let me strike that.

4 Did you have any meetings with non-White  
5 House counsel staff in connection with responding to  
6 the Senate subpoena?

7 MR. WITTEN: Not including Kendall?

8 MR. GIUFFRA: Yes.

9 THE WITNESS: I don't remember.

10 BY MR. GIUFFRA:

11 Q Do you recall anything about any meetings  
12 you might have had with Mr. Kendall about responding  
13 to the Senate subpoena?

14 A About the White House response to the  
15 subpoena on the White House?

16 Q Yes.

17 A I don't know. I may have.

18 Q Do you recall anything about those  
19 communications?

20 A Why do you think you're entitled to that?

21 MR. IVEY: Could you read back the  
22 question?

1 THE WITNESS: Maybe I'm just getting  
2 tired, but all of a sudden, you're asking me about my  
3 communications with the people that I work with all  
4 the time and it's just starting to seem like you're  
5 fishing around in areas that have nothing to do with  
6 the discovery of the billing records.

7 MR. IVEY: Wait. Let me hear the  
8 question.

9 (Readback.)

10 THE WITNESS: I may have. I don't have a  
11 specific recollection.

12 (Pause.)

13 BY MR. GIUFFRA:

14 Q In responding to the Senate subpoena,  
15 would your office have contacted former staff to see  
16 whether they took any documents with them that they  
17 shouldn't have taken?

18 A That they shouldn't have taken? No.

19 Q Would you have contacted former staff to  
20 see whether they had taken -- strike that.

21 In responding to the Senate subpoena,  
22 would you have contacted former staff of the White



1 House?

2 A May have.

3 Q Do you recall any instances in which you  
4 may have done that?

5 A Not particularly. There are certainly  
6 occasions where we may have questions about  
7 documents, what they mean, if they're responsive. We  
8 may get documents from one person that we'd also  
9 expect to find in somebody else's file. We may call  
10 them.

11 There have been occasions where people  
12 have taken White House records with them, not  
13 realized it, and then through their lawyers, whom we  
14 may be working with, realized that they have records  
15 in their personal possession that should have gone  
16 back to the White House.

17 I mean, this happens all the time.

18 (Pause.)

19 Q When did the White House first make an  
20 effort to retrieve electronic mail in response to the  
21 Senate's document requests or subpoenas?

22 A When did we first make efforts to retrieve

1 electronic mail? Well, I don't think you defined  
2 your request until October 17th sufficiently for us  
3 to even make any attempt whatsoever.

4 And at that point, we notified you of cost  
5 and the difficulty we had in identifying a way to pay  
6 for it, and asked for an opportunity to consult with  
7 the Committee about how we might pay for it.

8 So I would say that responding to your  
9 October 17 letter was probably the first attempt we  
10 made to try and set in motion the process that would  
11 enable us to retrieve the E-mail.

12 There was also that one week of E-mail  
13 that you wanted from 1994 that we retrieved for you  
14 last fall at some point. That was outside the period  
15 where E-mail had not been maintained.

16 Q When -- did there come a time prior to  
17 October 17, 1995, when the White House made an effort  
18 to retrieve E-mail that might be responsive?

19 A To the August 25th letter?

20 Q No, strike that.

21 Did there come a time prior to October 17,  
22 1995, when the White House first made an effort to

1 retrieve E-mails relating to Whitewater and related  
2 matters in response to the subpoenas or document  
3 requests by any investigatory agency?

4 A You're trying to back into an  
5 impermissible question, I can tell you.

6 MR. WITTEN: Putting Independent Counsel  
7 aside.

8 MR. GIUFFRA: That is not an impermissible  
9 question.

10 THE WITNESS: Well, Bob, I have told you  
11 repeatedly that if we had E-mails in the White House  
12 that we have obtained for any purpose that have any  
13 material in them that is responsive to the subpoena,  
14 you have either gotten them already or you will get  
15 them as they are created.

16 MR. GIUFFRA: That's not the question.

17 THE WITNESS: It should answer the  
18 question.

19 BY MR. GIUFFRA:

20 Q The question was --

21 A I'm not answering that question, damn it.  
22 I'm sick of this. I am totally sick of this. I have

1 had it. I told you that any E-mail that we have in  
2 the whole damn White House that is responsive to your  
3 request that we have been able to retrieve from the  
4 beginning of time to tonight you have.

5 Q That's not my question.

6 A You don't need to ask any other question.

7 MR. WITTEN: It's now 8:12. The witness  
8 is tired. I am tired. This examination has gone on  
9 for a very long time. If you've got questions you  
10 can ask in the next five minutes, ask them. And then  
11 we're leaving whether you're done or not.

12 MR. GIUFFRA: You're free to do what you'd  
13 like to do.

14 THE WITNESS: Just finish asking your  
15 questions.

16 BY MR. GIUFFRA:

17 Q Has the White House ever asked for bids to  
18 be submitted with regard to the retrieval of E-mails  
19 relating to Whitewater, Madison and related matters?

20 A I don't know how the bid process has  
21 worked and I would be surprised if the bid process  
22 specifically mentioned Whitewater Madison.

1 But I know that the Office of  
2 Administration has undertaken some sort of a process  
3 to obtain outside support to comply with various  
4 requests for E-mail.

5 Q Do you know when the Office of  
6 Administration first made requests for such E-mails?

7 A No, I don't.

8 Q Has your office made an effort to contact  
9 the contractors with regard to the retrieval of E-  
10 mails?

11 A I don't understand your question.  
12 Contact them directly for the purpose of?

13 Q Trying to retrieve E-mails.

14 A I don't understand your question. We  
15 don't have the authority to contract with anybody.

16 Q Have you had discussions with the Office  
17 of Administration about efforts to retrieve E-mail in  
18 any way relating to Whitewater or Madison?

19 MR. WITTEN: It sounds to me like a  
20 subject for negotiation, not a deposition.

21 THE WITNESS: It has been the subject of  
22 many negotiations. Yes, we have.

---

1 BY MR. GIUFFRA:

2 Q Do you recall when you first contacted the  
3 Office of Administration?

4 Believe me, I'm virtually done.

5 A To respond to the Senate subpoena?

6 Q No, not to respond to the Senate subpoena,  
7 to respond to any subpoena related to E-mails related  
8 to Whitewater or Madison?

9 A No, I have no recollection of that.

10 Q Do you know whether that would have been  
11 prior to August 25th, 1995?

12 A I don't know. As we've told you  
13 repeatedly in our numerous negotiations on this  
14 subject, including up to last week, we've had  
15 numerous requests for E-mail a long way. We've given  
16 you many, many estimates of what it's going to cost,  
17 how much time it's going to take.

18 We've gotten E-mail on Foster-related  
19 issues that are arguably Whitewater related or at  
20 least were within the jurisdiction of the so-called  
21 Special Committee to investigate Whitewater. And all  
22 of the estimates that we've gotten related to cost,



1 time consumed, and the complexity of the E-mail. All  
2 of our understandings about the technology required  
3 and why it's unavailable, all come from  
4 communications that we've had from people from the  
5 Office of Administration.

6 Q My only question is when did you first  
7 have these communications with the Office of  
8 Administration, if you know?

9 A Well, it would probably be, I think the  
10 first successful E-mail retrieval project we had was  
11 in the summer of '95, so getting that work done  
12 probably would have required conversations with them  
13 in the early summer of '95.

14 Q Did there come a time in October 1995 when  
15 bids, do you know, were submitted to the Office of  
16 Administration with regard to the retrieval of E-  
17 mail?

18 MR. WITTEN: Do you really need to ask  
19 this under oath in a deposition?

20 MR. GIUFFRA: Yes.

21 THE WITNESS: Why?

22 MR. WITTEN: You've got about a minute.

---

1 Let's go.

2 THE WITNESS: I don't know.

3 BY MR. GIUFFRA:

4 Q No recollection?

5 A As I said, the bidding process is  
6 something that is not handled by the counsel's  
7 office. We don't do that.

8 (Pause.)

9 MR. GIUFFRA: I don't have any further  
10 questions. I do want to state something on the  
11 record.

12 MR. IVEY: I want to hear your statement.

13 MR. GIUFFRA: Do you have any questions?

14 MR. IVEY: I don't know what you're going  
15 to say. I don't have any questions at this point.

16 MR. GIUFFRA: Two things I want to make  
17 clear on the record.

18 Consistent at least with what the  
19 majority's understanding is with regard to any  
20 agreement or lack thereof with regard to scope of  
21 examination. Yesterday, and at the request of Ms.  
22 Sherburne and Mr. Kendall, I and Ms. Fisher attended



1 a meeting in the hearing room. At this meeting  
2 discussion concerned areas about which the White  
3 House and Mr. Kendall respectively might assert  
4 privileges that they might possess with regard to  
5 areas of inquiry.

6 At the meeting, we identified three areas  
7 about which inquiry might be had; search protocols,  
8 discovery of records on January 4th in productions to  
9 the Committee, and communications with third parties  
10 about the billing records. The review of the White  
11 House logs with regard to entries and exits into the  
12 residence.

13 At this meeting, it's at least my belief  
14 and understanding Ms. Sherburne indicated areas about  
15 which she would want to assert some privilege or  
16 refuse to answer the question.

17 Mr. Kendall indicated areas about which he  
18 would assert the privileges that his clients might  
19 possess with regard to areas of communication.

20 The majority staff indicated that it would  
21 attempt to be cognizant of these areas but that it  
22 was not agreeing to anything with regard to what the

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1 scope of the Committee's inquiry would be.

2 MR. IVEY: I would just say --

3 MR. GIUFFRA: You can say it.

4 MR. IVEY: I'm not even going to disagree  
5 with what you're saying. All I'm going to say is  
6 that the record is filled with points where both  
7 sides have laid out on the record their views of what  
8 took place at the meeting and all of those privilege  
9 issues I really don't think you need to recap.

10 MR. GIUFFRA: I want to recap it and it's  
11 my prerogative to recap it, and I'm going to recap it  
12 because I suspect it will come up on Thursday.

13 THE WITNESS: Bob, I don't know that it  
14 needs to come up on Thursday. If we can identify  
15 areas --

16 MR. GIUFFRA: I just want to make sure  
17 this is on the record. There's no agreement as to  
18 areas that are within bounds or out of bounds.

19 The purpose of the meeting was just to  
20 identify where privilege was to be asserted and not  
21 asserted.

22 With regard to the question as to whether

1 anyone would have to assert any privilege or refuse  
2 to answer questions during the hearings, I indicated  
3 that the majority was not entering into any agreement  
4 not to do that, and in fact that there might be  
5 instances in which witnesses would be asked on the  
6 record to ask questions, and the witness would be  
7 free to answer the question, or if they wanted to  
8 assert some form of privilege or refuse to answer the  
9 question, they could do so.

10 We haven't agreed to not have witnesses  
11 refuse to answer questions at the hearing, and have  
12 this all worked out in advance.

13 MR. WITTEN: We will respond in writing to  
14 that twisted and inaccurate description of  
15 yesterday's meeting.

16 MR. GIUFFRA: At which you were not  
17 present.

18 MR. WITTEN: And I want to put on the  
19 record a request that if the Committee, either its  
20 majority or its minority, seeks to question this  
21 witness about any areas where questioning has  
22 occurred today, if the Committee is going to seek to

1 do that at the hearing on Thursday, give us notice,  
2 so there is an opportunity to prepare in those areas  
3 and to work out any differences between us that may  
4 still exist.

5 Thank you and good night.

6 MR. GIUFFRA: You have notice right now.  
7 Take notice that the Committee will seek to examine  
8 Ms. Sherburne about the areas that you refuse to  
9 answer questions about during the deposition today.

10 MR. WITTEN: Okay, thank you.

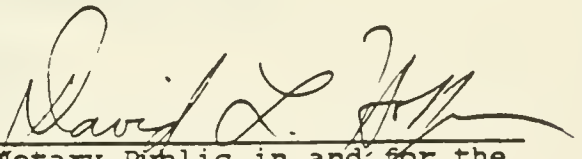
11 (Whereupon, at 8:20 p.m., Tuesday,  
12 February 6, 1996, the taking of the deposition  
13 ceased.)  
14

15 -----  
16 JANE C. SHERBURNE  
17  
18  
19  
20  
21  
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, DAVID L. HOFFMAN, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires JUNE 30, 2000





**DEPOSITION OF DAVID EVAN KENDALL  
IN RE: S. RES. 120**

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**WEDNESDAY, FEBRUARY 7, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of DAVID EVAN KENDALL, called for examination pursuant to notice of deposition, at 3:31 p.m. in the Hart Senate Office Building, before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.  
Majority Chief Counsel  
LANCE COLE, Esq.  
Minority Deputy Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

MICHAEL S. SUNDERMEYER, Esq.  
Williams & Connolly  
725 Twelfth Street, NW  
Washington, DC 20005

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## 1 PROCEEDINGS

2 Whereupon,

3 DAVID EVAN KENDALL

4 was called as a witness and, having first been duly  
5 sworn, was examined and testified as follows:

## 6 EXAMINATION

7 BY MR. GIUFFRA:

8 Q Good afternoon, Mr. Kendall.

9 A Good afternoon, Mr. Giuffra.

10 Q To my left is Doug Nappi, who is counsel  
11 for the Banking Committee, and further down is Lance  
12 Cole, who is minority special counsel. I see you are  
13 represented by counsel.

14 Will counsel state his appearance?

15 A I'm here with my partner Michael  
16 Sundermeyer who is advising me on privilege matters.17 MR. SUNDERMEYER: Sundermeyer is not  
18 representing the witness.

19 BY MR. GIUFFRA:

20 Q Excuse me. This is a deposition that's  
21 being conducted pursuant to Senate Resolution 120.  
22 This resolution establishes a special committee which

4

1 is administered by the banking committee to conduct  
2 an investigation involving Whitewater Development  
3 Corporation and related matters.4 Mr. Kendall, you're familiar with the  
5 resolution?

6 A I am.

7 Q You don't need me to run through the  
8 procedures with regard to the conduct of depositions,  
9 I will if you want me to.

10 A I don't think so.

11 I will ask, when will we have a chance to  
12 review the transcript?

13 MR. GIUFFRA: Off the record.

14 (Discussion off the record.)

15 MR. GIUFFRA: I don't have a problem with  
16 -- the court reporter can have it delivered to  
17 Mr. Kendall's office or Mr. Kendall can have  
18 arrangements to have it picked up with the court  
19 reporter this evening --

20 THE WITNESS: Good.

21 MR. GIUFFRA: -- that would be fine --

22 THE WITNESS: Thank you.

1 MR. GIUFFRA: -- get it to Mr. Kendall at  
2 the same time you get it to the committee.

3 BY MR. GIUFFRA:

4 Q And you understand you'll be testifying  
5 tomorrow at the public hearing?

6 A I do.

7 MR. SUNDERMEYER: Do we know the time?  
8 There is some question as to whether the panels have  
9 been flipped.

10 MR. GIUFFRA: My understanding is that  
11 Mr. Kendall will be on the panel starting at  
12 10:00 o'clock in the morning.

13 THE WITNESS: With Ms. Sherburne, is that  
14 correct?

15 BY MR. GIUFFRA:

16 Q That's my understanding, correct.

17 Mr. Kendall, will you please state your  
18 name for the record?

19 A David Evan Kendall.

20 Q And the spelling of your last name?

21 A K-E-N-D-A-L-L.

22 Q Mr. Kendall, I want to just ask you a

1 couple very brief background questions.

2 When did you join Williams and Connolly?

3 A January 1978.

4 Q And you've been there the entire time?

5 A I have.

6 Q And your practice is -- just briefly  
7 describe the nature of your practice.

8 A General litigation.

9 Q And do you also do some criminal defense  
10 work?

11 A I do both the criminal and civil  
12 litigation.

13 Q In the course of your practice, have you  
14 previously had -- have you had experience with regard  
15 to taking of fingerprints on either documents or  
16 other forms of evidence?

17 A In my previous experience as a lawyer, to a  
18 limited extent, I dealt with fingerprint matters  
19 while I was a lawyer at the NAACP Legal Defense Fund.

20 Q Could you -- you graduated from law school  
21 in?

22 A 1971.



1 Q And were you at the NAACP until you joined  
2 Williams and Connolly?

3 A From -- no, I clerked for a year for  
4 Mr. Justice White. I was in the Army for a period of  
5 time, and then from 1973 to 1978, I was at the NAACP  
6 Legal Defense Fund.

7 Q If you could just very briefly describe for  
8 the record your experience with regard to fingerprint  
9 issues while at the NAACP?

10 A I represented a number of defendants in  
11 murder cases and occasionally fingerprint evidence  
12 would be an issue.

13 Q Do you have any familiarity with the  
14 procedures that are used to obtain fingerprint  
15 evidence from documentary evidence?

16 A Let me confer.

17 (Witness confers with counsel.)

18 THE WITNESS: In a very limited way.

19 BY MR. GIUFFRA:

20 Q Could you just briefly state for the record  
21 your knowledge with regard to how fingerprint  
22 evidence is obtained from documentary evidence?

---

1 A I'm not sure I know how it's obtained, but  
2 I know that it is easier to take fingerprints from  
3 documents than from metal or glass objects.

4 Q Do you know anything about the factors that  
5 might make it difficult to take fingerprint evidence  
6 from documentary evidence?

7 A My understanding is that fingerprints on  
8 solid surfaces are easily smeared, whereas on  
9 documents, if a fingerprint impression is received,  
10 it's more likely to be permanent and not smeared.

11 Q Is that understanding based on your own  
12 experience in cases or from attending seminars or  
13 just from work?

14 A It's based on my experiences in cases in  
15 dealing with fingerprint and other experts.

16 Q And would this experience be based on the  
17 time you were at the NAACP?

18 A Yes, it is.

19 Q Okay. Mr. Kendall, I'd like to show you a  
20 document which bears Bates number DKS N 028928 through  
21 29043.

22 (Witness reviews the document.)

1 THE WITNESS: Do you have a better copy,  
2 that's -- there's some pages here I can't tell the  
3 Bates number. There are three pages cut off, and I  
4 think they would be Bates numbers 28960, 61 and 62,  
5 because I pick up here with 63.

6 BY MR. GIUFFRA:

7 Q I think that's --

8 A The other one could be 64, and I have 65,  
9 66. 67 is not clear. I have 68. I don't know if  
10 that's 69. I have 70, 71. I don't know if this page  
11 is 74. I don't find an 83. I don't know if that's  
12 95.

13 And I'm reading the last pages of the Bates  
14 number. I don't know if that's 002. I don't know if  
15 that's 017. I don't know if this is 022. I don't  
16 know if that's 024. I don't know if that's 026. I  
17 can't tell if that's 035, and I don't know what  
18 number that final page is.

19 The pages I have before me appear to be a  
20 reduced noncolor Xerox copy of some of the billing  
21 records that I produced to this committee on January  
22 5, 1996.

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10

1 Q All right. We will endeavor to get a  
2 complete set of those documents so the Bates numbers  
3 is more clearly read.

4 Now, the documents that you produced to the  
5 committee on January 5th, 1996, when did you first  
6 learn of the existence of those documents?

7 A About a little before 1:00 o'clock  
8 on -- 1:00 p.m. on January 4th, 1996.

9 Q And how did you learn of the existence of  
10 these documents?

11 A I stopped by the office of Mrs. Carolyn  
12 Huber in the east wing of the White House and she  
13 showed me documents which were I believe at least two  
14 generations away, photographs of what I have here in  
15 front of me this afternoon.

16 Q And Ms. Huber called you earlier in the  
17 day --

18 A No.

19 Q -- and advised you -- had someone else  
20 called you earlier in the day?

21 A I received -- I was in a meeting at the  
22 White House, and I received a message slip from an

1 usher asking me to please stop by to see Ms. Huber  
2 before I left the White House.

3 Q And did the message slip indicate in any  
4 way what Mrs. Huber was to speak to you about?

5 A It did not.

6 Q When you arrived at Ms. Huber's east wing  
7 office a little before 1:00 p.m., what did Ms. Huber  
8 say to you?

9 A As I recall, she said, David, I have some  
10 documents for you, and she handed me a sheaf of  
11 documents.

12 Q Did Mrs. Huber say anything to you about  
13 the circumstances surrounding her discovery of these  
14 documents?

15 A She said that she had discovered them in a  
16 box of memorabilia which was in her east wing office  
17 when she had had a table moved out earlier that day.

18 Q Did she say anything to you about the  
19 circumstances under which she might have placed the  
20 documents in the box of memorabilia?

21 A I don't think she did on that occasion.

22 Q Did she say anything further to you about

1 the circumstances surrounding her handling of these  
2 documents?

3 A She at one point toward the end of our  
4 10-minute or so meeting said something like I felt I  
5 had to tell you, have I done the right thing.

6 Q Did Mrs. Huber indicate that she had  
7 advised anyone else of the existence of these  
8 documents?

9 A She did not.

10 Q Now, during this 10-minute meeting that you  
11 had with Mrs. Huber in her east wing office,  
12 you -- did you review the documents?

13 A Yes, I did.

14 Q And you realized what the documents were  
15 when you reviewed them?

16 A Well, I realized that these were Xerox  
17 copies of what appeared to be certain billing records  
18 of the Rose law firm for the Madison Guaranty  
19 account.

20 Q And you were aware that these documents  
21 were responsive to -- strike that.

22 You were aware these documents could be

1 responsive to subpoenas and document requests served  
2 by investigatory agencies looking into Whitewater,  
3 Madison and related matters?

4 A Yes, I was.

5 Q Did you say anything of substance further  
6 to Ms. Huber?

7 A As we looked at the document, I asked her  
8 if she could identify any handwriting on the  
9 document, she said that she believed the red was  
10 Mr. Foster's handwriting.

11 She said that she had been a -- I think I  
12 known this, but I think she told me that she had been  
13 at the Rose law firm as office manager. She may have  
14 identified the handwriting of other people in the  
15 accounting department as well.

16 Q Do you recall Mrs. Huber identifying any  
17 other handwriting during this 10-minute meeting?

18 A I don't think so during this meeting.

19 Q Did Mrs. Huber say anything further to you  
20 about the billing records during the 10-minute  
21 meeting?

22 A Nothing that I can recall, other than what

1 I've testified.

2 Q And did Mrs. Huber appear to be somewhat  
3 agitated?

4 A She did.

5 Q Can you say anything more about her  
6 demeanor?

7 A I had known Mrs. Huber for over two years.  
8 She appeared to me somewhat nervous, agitated and  
9 flustered.

10 Q At approximately what time would you have  
11 concluded with Ms. Huber, at approximately  
12 1:00 o'clock or so?

13 A Yes, I did.

14 Q And did you give any instructions to  
15 Mrs. Huber at the conclusion of your meeting?

16 A I did.

17 Q What did you instruct Mrs. Huber to do?

18 A I responded to her that she had absolutely  
19 done the right thing; that I thought these documents  
20 would be helpful; that we would produce them; that  
21 she should call her own lawyer, Mr. Shulkey; that I  
22 would try and get in contact with White House



1 counsel, we would have a meeting with her later, and  
2 in the meantime, she ought to safeguard the  
3 documents.

4 MR. COLE: Let's go off the record a  
5 minute.

6 MR. GIUFFRA: Yes, let's go off the  
7 record.

8 (Discussion off the record.)

9 BY MR. GIUFFRA:

10 Q Was it your understanding that you were the  
11 first person Ms. Huber contacted with regard to the  
12 discovery of these billing records?

13 A That was my understanding.

14 Q After you -- did you leave -- you left  
15 Mrs. Huber's office?

16 A Yes, I did.

17 Q And she had kept the documents?

18 A She did.

19 Q And what steps did you take next?

20 A I telephoned her counsel, Mr. Shulkey.

21 Q From your office or from --

22 A No, I had some other things to do. I think

1 I did not get him at first, I got him later in the  
2 afternoon, and I contacted Mr. Sherburne of the White  
3 House counsel's office.

4 Q Would you have contacted Ms. Sherburne  
5 approximately after the meeting concluded?

6 A No, I think I tried to get Mr. Shulkey  
7 first, I couldn't get him for a while. I may have  
8 called Ms. Sherburne, but I don't think I got her  
9 until around 4:00 o'clock maybe.

10 Q Okay. Now, when you -- you were at the  
11 White House on January 4, a little before  
12 1:00 o'clock, with whom were you meeting at the White  
13 House?

14 A That's part of my work product, and I'm not  
15 going to respond.

16 Q Okay. Approximately what time were you  
17 able to contact Mr. Shulkey?

18 A I think I got him around -- between  
19 3:00 o'clock and 3:30 sometime.

20 Q And what did you tell Mr. Shulkey?

21 A I told him that Carolyn Huber appeared to  
22 have discovered copies of some Rose law firm billing

1 records that I thought he and I and Ms. Sherburne  
2 should meet to review the documents and decide how  
3 they should be produced.

4 Q And you scheduled a meeting for about  
5 5:00 o'clock?

6 A I think the meeting was for 4:45, but we  
7 didn't get started really until 5:00 or 5:15.

8 Q It's a familiar pattern with regard to  
9 meetings.

10 When you contacted Ms. Sherburne, it was  
11 approximately 4:00 o'clock?

12 A I believe so.

13 Q And what do you recall about your  
14 conversation with Ms. Sherburne?

15 A I said that I had talked to Ms. Huber  
16 earlier in the day, I had been to her office, and she  
17 appeared to have discovered copies of Rose law firm  
18 billing records, that I contacted Mr. Shulkey, he was  
19 available to make a 4:45 meeting with Ms. Huber and I  
20 hope she would be able to make the meeting also.

21 Q Do you recall anything further about your  
22 conversation with Ms. Sherburne?

1 A I do not.

2 Q Did you give any instruction or directions  
3 to Ms. Sherburne?

4 A I did not.

5 Q And did Ms. Sherburne give you any  
6 instruction or direction?

7 A Not that I recall.

8 Q You then attended the meeting at 5:15?

9 A Yes, I think Mr. Shulkey and I arrived at  
10 the White House at about the same time. We had to  
11 wait for a while and then were conducted up to  
12 Ms. Huber's office. I can't recall if Ms. Sherburne  
13 was already there or if she joined us on the way up.

14 Q Okay. Between 1:00 o'clock and when you  
15 arrived at the White House, between the time you left  
16 Mrs. Huber's office, did you return to your office or  
17 did you remain at the White House?

18 A I went to the National Gallery first of  
19 all, and then I returned to my office.

20 Q Okay. So whatever business you were  
21 involved with at the White House prior to a little  
22 bit before 1:00 was concluded at the time?

- 1 A Yes, it was.
- 2 Q You went to see Ms. Huber?
- 3 A Indeed, I had received the note before the
- 4 conclusion of the meeting I was at, I waited till the
- 5 end of the meeting to go to see Mrs. Huber.
- 6 Q Do you recall approximately what time you
- 7 might have received the note from Mrs. Huber?
- 8 A I think it was between 11:30 and noon.
- 9 Q All right. Between noon and 4:45 p.m., did
- 10 you attempt to notify anyone with regard to the
- 11 discovery of these billing records?
- 12 A I attempted to call my partner, Nicole
- 13 Seligman.
- 14 Q Did you attempt to call anyone else?
- 15 A No.
- 16 Q You did not attempt to call the independent
- 17 counsel?
- 18 A I did not.
- 19 Q Did you attempt to call Mrs. Clinton?
- 20 A I did not.
- 21 Q Do you have any understanding as -- strike
- 22 that.

- 1 Okay. When you arrived at 4:45 p.m., you
- 2 and Mr. Shulkey went to Ms. Huber's office?
- 3 A Yes, ultimately we proceeded to her office.
- 4 Q Okay. What happened in Ms. Huber's office?
- 5 A Ms. Sherburne was there. Ms. Huber was
- 6 there.
- 7 Q Ms. Sherburne was there before you both had
- 8 arrived?
- 9 A I can't recall if she was there before or
- 10 if she joined us on the way up. It's possible she
- 11 may have conducted us up there. We examined the
- 12 records in Ms. Huber's office.
- 13 Q When you say "examined the records," who
- 14 was handling the records during this period?
- 15 A My recollection is that all four of the
- 16 people there were. I think Ms. Huber produced the
- 17 records, I think each one of us then looked at the
- 18 records.
- 19 Q During the initial meeting you had with
- 20 Ms. Huber a little bit before 1:00 p.m., you also
- 21 handled the records as well as Ms. Huber?
- 22 A I did.

1 Q Were you at all concerned during the  
2 initial meeting that perhaps fingerprint evidence  
3 might be lost because of the fact that you were  
4 handling the records?

5 A I was not.

6 Q That never entered into your --

7 A I think that's correct.

8 Q Was there any concern expressed at the  
9 let's just say the 5:15 meeting that fingerprint  
10 evidence might be lost if persons other than  
11 Ms. Huber handled the documents?

12 A Well, as I recall, we looked at the  
13 documents for a while in Ms. Huber's office, had a  
14 somewhat disjointed conversation with her about the  
15 circumstances of the discovery where the documents  
16 were, then we proceeded to an office down the hall  
17 that was slightly larger, and we determined that we  
18 ought to go systematically through the records to  
19 ascertain what they were, whether they were  
20 responsive, whether there were any privilege  
21 questions.

22 And Ms. Huber was seated at a desk, the

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1 three of us were around her looking down as she would  
2 explain what she knew about the various pages of the  
3 billing records. About midway through that process,  
4 Ms. Sherburne indicated that she would like to confer  
5 with Mr. Shulkey and me in the hall outside the  
6 office.

7 She -- we conferred in the hall, she raised  
8 the question of how we were going to copy and produce  
9 these records and also raised a question whether we  
10 should be handling them.

11 Q Okay. Let's just go back just briefly.

12 What do you recall about the conversation  
13 that you had at 5:15 or thereabouts with Mrs. Huber,  
14 Ms. Sherburne and Mr. Shulkey in which Ms. Huber  
15 recounted how she had discovered the documents?

16 A Her account was very vague. A problem I  
17 have is that Ms. Huber gave accounts at various times  
18 during that evening, and I have difficulty keeping  
19 the accounts straight in my mind.

20 But she basically indicated at the 5:15,  
21 the initial session, as I recall, that the documents  
22 had, in fact, been in her office for a period of



1 time, a period of some months.

2 Q Did she indicate for approximately how many  
3 months?

4 A Well, I don't know. My recollection is at  
5 one point she said four months; at one point, five  
6 months, and at one point five to 10, various times as  
7 she tried to identify the point where the records  
8 came to her east wing office.

9 Q Did Ms. Huber say anything with regard to  
10 when she first came upon these documents?

11 A Again, she was quite vague. And at one  
12 point she seemed to say she had recognized them in  
13 the residence as Rose law firm billing records.

14 Q You're probably going to quickly.  
15 Did she indicate she had found these  
16 documents in the residence and then had transported  
17 them to her east wing office?

18 A At some point she did.

19 Q You don't recall approximately when?

20 A I don't recall when.

21 Q What did Ms. Huber say about the -- about  
22 the circumstances under which she first came upon

1 these documents in the residence?

2 A Well, she didn't say very much. She was,  
3 as I said, agitated. We determined that Mr. Shulkey  
4 at a later time should talk to her and try to  
5 get -- get the facts from her.

6 Q But did she indicate that she found these  
7 records initially in the residence of the White  
8 House?

9 A She did.

10 Q Did she indicate the room in which -- room  
11 in the residence in the White House in which she  
12 found these records?

13 A She at some point indicated that it was in  
14 the room which I knew as the junk room.

15 Q Why did you know this room as the junk  
16 room?

17 A That's what it was called when -- when I  
18 was really -- had some familiarity with it.

19 Q Had you been in the room previously?

20 A I had.

21 Q Approximately when had you been in the  
22 room?

1 A I had been in the room in I remember March  
2 of 1994 and July -- June and July of '94. I may have  
3 been in there on other occasions, I just don't  
4 recall.

5 Q And what were the circumstances under which  
6 you were in the room in March of 1994?

7 A To review documents.

8 Q In connection with this case?

9 A In connection with my research in this  
10 case, yes.

11 Q And when you were in the book room in June  
12 and July of 1994, was it also to review documents in  
13 connection with your research in this case?

14 A It was really to -- it was part of the  
15 document production process, but we had -- we had a  
16 Xerox machine installed in the room, and, as I  
17 recall, it was just to visit the Xerox operator.

18 Q So there was a Xerox operator who was  
19 actually doing the copying for you?

20 A Yes, we brought over our own Xerox  
21 operator.

22 Q And that was sort of the equivalent of the

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1 Xerox room for your document production?

2 A It was.

3 Q Do you recall for approximately how  
4 many -- what length of time you were in the book room  
5 in March of '94?

6 A I really don't.

7 Q Did you attempt when you were in the book  
8 room -- strike that.

9 On any occasion, did you ever attempt to  
10 search for documents that might be responsive to  
11 either document requests or subpoenas served by  
12 investigatory agencies relating to the Whitewater,  
13 Madison matter?

14 A Well, in the time in March, I was in there,  
15 I reviewed two boxes of documents which Ms. Huber had  
16 directed me to, which just happened to be in there.  
17 I did not conduct a search in the junk room.

18 Q What were contained in the two boxes of  
19 documents that Mrs. Huber directed you to in March of  
20 1994?

21 A These were two boxes of files from the Rose  
22 law firm.

1 Q When you say -- what was contained in the  
2 two boxes of files from the Rose law firm?

3 A By and large, personal files of  
4 Mrs. Clinton.

5 Q When you say "personal files of  
6 Mrs. Clinton," can you be more specific with regard  
7 to the nature of the files that were contained in the  
8 two boxes?

9 A They were miscellaneous files, but  
10 of -- they would be on educational matters. They  
11 would be on current events or issues.

12 Q Was it your understanding that these boxes  
13 had been transported from the Rose law firm to the  
14 White House?

15 A It was.

16 Q And do you know when approximately these  
17 boxes were transported from the Rose law firm to the  
18 White House?

19 A Sometime in 1993.

20 Q Do you know who was the person at the Rose  
21 law firm in charge of -- strike that.

22 Do you know the person who at the Rose law

---

1 firm, who shipped the two boxes from Arkansas to  
2 Washington?

3 A As I recall, it was Amy Stewart.

4 Q Do you know anything more -- anything about  
5 the circumstances under which Ms. Stewart shipped  
6 these two boxes of documents to the White House?

7 A I do not.

8 Q In reviewing the two boxes of documents,  
9 did you locate any documents that would have been  
10 responsive to the Senate's subpoena?

11 A I did.

12 Q And do you recall generally the documents  
13 that you found?

14 A I do.

15 Q What were those documents?

16 A It was a file called Whitewater estates,  
17 and it had in it some miscellaneous  
18 Whitewater-related materials, such as escrow receipts  
19 and documents like that.

20 Q Were there any documents relating to  
21 Madison Guaranty in the two boxes of documents?

22 A Not that I recall.

1 Q Were there any documents relating to the  
2 Rose law firm -- strike that.

3 Were there any documents relating to any  
4 Rose law firm clients in the two boxes of documents?

5 A Not that I recall. Whitewater Development  
6 Company was for a short period of time I think a Rose  
7 law firm client, but apart from that, these were, as  
8 I can recall, personal and not clients files.

9 Q Okay. And there were not any -- you didn't  
10 see any Rose law firm billing records in the two  
11 boxes of documents?

12 A I did not.

13 Q And on the occasion -- on any of the  
14 occasions when you were in the so-called book room or  
15 junk room, you never saw any Rose law firm billing  
16 materials?

17 A I did not.

18 Q And you never saw the documents that you  
19 produced to the committee on January 5, 1996 in the  
20 book room on any of the occasions when you were  
21 there?

22 A I did not.

---

30

1 Q But no one from your office ever did a  
2 document search in the book room, search for  
3 documents in the book room?

4 A I think our search was conducted in a  
5 different manner, but I think the answer to your  
6 question is, no, we did not search the book room.

7 Q Do you know whether Mrs. Huber ever  
8 attempted to search the book room for documents that  
9 might be responsive to the Senate's subpoena?

10 A Well, we relied upon Mrs. --

11 Q I just want to -- so the record is clear,  
12 obviously the Senate's subpoena would not have been  
13 served until October 30, 1995, and this would all  
14 have been going on earlier. But I'm just trying to  
15 focus on documents that would have been responsive to  
16 the Senate's subpoena.

17 A I can't say what precisely Mrs. Huber did,  
18 but we did rely upon her to identify records that  
19 could conceivably be responsive to the several  
20 document requests we responded to.

21 Q And do you have any understanding as to  
22 what steps Ms. Huber took in trying to locate



1 documents that might be responsive to the several  
2 document requests that you were responding to that  
3 related to Whitewater, Madison?

4 A Well, not specifically, but she was  
5 familiar with all of the Clintons personal financial  
6 records and was able to provide them for us and  
7 provide other documents for our review that could  
8 conceivably be relevant to the various document  
9 requests.

10 Q Your recollection is you were in the book  
11 room in March of 1994 and June and July 1994 and  
12 perhaps on other occasions?

13 A And perhaps on other occasions.

14 Q Did the condition of the book room remain  
15 essentially the same on the various occasions you  
16 were there?

17 A It did. It resembled an attic. It was a  
18 very cluttered room. It appeared to be a storage  
19 place. There were bookshelves on the wall, but there  
20 were boxes, political memorabilia and other things  
21 stacked and piled around.

22 Q Do you recall whether -- about how large

---

1 was the room?

2 A I'll have to give you an estimate, I would  
3 say perhaps 20 by 15 feet.

4 Q And when you say there were boxes stacked  
5 around the room, was it five boxes, 10 boxes? Can  
6 you give us an approximate number?

7 A There were many boxes, and I don't know how  
8 many.

9 Q And were they stacked rather high?

10 A The impression I have is of a jumble of  
11 boxes. I just can't be more specific than that.

12 Q And was there a table in the center of the  
13 book room?

14 A I don't remember. It's possible, but I  
15 don't remember.

16 Q Okay. And you recall books being in book  
17 cases around the room.

18 Do you have any understanding as to what  
19 persons would have had access to the book room just  
20 as a general matter?

21 A Well, I know that there was a laundry room  
22 behind it. There was a back corridor where -- which

1 went out onto the roof of the White House, and there  
2 was an exercise room area on the left as you went in,  
3 but I don't specifically know who had access to the  
4 junk room.

5 Q Do you have any understanding as to who  
6 would have used the exercise room that was adjacent  
7 to the, we'll call it the book/junk room?

8 A Well, my impression is that -- that guests,  
9 Clintons themselves, perhaps some of the staff did.

10 Q But in order to enter the exercise room,  
11 you had to go through the book room?

12 A Yes.

13 Q Now, am I correct that Mrs. Clinton has an  
14 office on the third floor of the residence?

15 A Not any more. At one point the room  
16 adjacent to the junk room was used occasionally by  
17 Mrs. Clinton, I first knew that really as Ms. Huber's  
18 office. It is now used by Chelsea Clinton as a  
19 computer room.

20 Q When did the room cease being used by  
21 Mrs. Clinton or Mrs. Huber as an office?

22 A I don't know.

1 Q As of August 1995, do you know to what use  
2 the room was being put?

3 A I don't.

4 Q But you do have an understanding on some  
5 occasion Mrs. Clinton used the office for various  
6 purposes?

7 A I think so, although as I say, I think it  
8 was primarily Mrs. Huber's office.

9 Q Okay.

10 A Mrs. Huber had an office in the east wing,  
11 this was Mrs. Huber's office in the residence  
12 basically.

13 Q Do you have any understanding with regard  
14 to the frequency with which Mrs. Huber would have  
15 used this office?

16 A In 1994, I think it was reasonably  
17 frequently.

18 Q Daily basis?

19 A I don't know.

20 MR. COLE: Could we clarify the sequence?  
21 Mr. Kendall testified to three uses of the room  
22 that he has some knowledge of, as an office by

1 Mrs. Huber, some use by Mrs. Clinton, and then by  
2 Chelsea Clinton for a computer room. And I'm not  
3 clear if he knows the sequence of those three uses of  
4 the room.

5 BY MR. GIUFFRA:

6 Q That's fine, if you could clarify that,  
7 that would be fine.

8 A About all I can say is that I first knew it  
9 as Mrs. Huber's office. I then had the impression  
10 that Mrs. Clinton occasionally used it and, recently,  
11 I have the impression that it is Chelsea's study and  
12 computer room.

13 MR. COLE: That's helpful. Thank you.

14 BY MR. GIUFFRA:

15 Q Did you ever -- you or any of your  
16 agents -- strike that.

17 Did you or any employees of Williams and  
18 Connolly search for documents in this office --

19 A Yes, we did.

20 Q -- that might be responsive? When would  
21 you have done that?

22 A That would have been in the June/July 1994

1 period.

2 Q And were you able to identify any documents  
3 that would have been responsive to the various  
4 subpoenas and document requests related to the  
5 Whitewater matter?

6 A Yes, we were.

7 Q And just generally, what was the nature of  
8 the documents that you were able to locate in the  
9 office?

10 A These were largely personnel financial  
11 records of various kinds that were responsive to  
12 various document requests.

13 Q Were these personal financial records  
14 stored in a closet in that office?

15 A There were some boxes of records stored in  
16 the closet. There were also records elsewhere in the  
17 room, and Mrs. Huber brought in, as I recall, some  
18 other boxes.

19 Q Do you know from where Mrs. Huber brought  
20 these other boxes?

21 A I do not.

22 Q Were there also file cabinets in the

1 office?

2 A My recollection is that there was at least  
3 one file cabinet, and there were also I believe some  
4 built-in file drawers under the window.

5 Q Did you locate any documents -- strike  
6 that.

7 Did you locate any documents relating to  
8 the Rose law firm's representation of Madison  
9 Guaranty during your search of the documents in the  
10 office in June/July 1994?

11 A Not to my recollection. I mean we  
12 identified documents relating to, for example,  
13 President and Mrs. Clinton's tax returns, that would  
14 have reflected income from the Rose law firm, which  
15 conceivably in some years might have been derived  
16 indirectly from the Madison Guaranty representation,  
17 but no documents which, to my recollection, which  
18 related specifically to that representation.

19 Q And did you locate any Rose law firm  
20 billing materials during your review of documents in  
21 the office on the third floor of the residence in  
22 June/July 1994?

1 A Not that I recall.

2 Q So we don't have to go back through this.

3 When you say that Mrs. Huber brought the  
4 documents forward, did anyone, either yourself or  
5 someone else from your office, actually go and look  
6 through the file cabinets and look about the room to  
7 see whether there might be responsive documents, or  
8 were you relying on Mrs. Huber?

9 A No, in terms of the office, we really  
10 reviewed every scrap of paper in there, that was the  
11 principal locus of records and files in that period.  
12 So we reviewed every piece of paper in the office,  
13 including file drawers, file cabinets. And  
14 Mrs. Huber brought -- and I don't know whether she or  
15 somebody at her behest brought certain other boxes  
16 that Mrs. Huber deemed might be responsive.

17 Q Do you have any understanding as to where  
18 those other boxes might be stored at the White House  
19 complex?

20 A I do not.

21 Q Did Mrs. Huber indicate to you in any way  
22 where they might have been stored?



1 A I can't recall.

2 Q But it was your understanding that the  
3 Clintons personal papers for the most part would have  
4 been stored in this office?

5 A Yes. Also, Mrs. Huber kept the Clintons  
6 personal records and papers and had for many, many  
7 years. She was really more experienced -- she was  
8 the most experienced person as to what documents were  
9 where.

10 Q Do you have any understanding of the  
11 process by which those documents were shipped from  
12 Arkansas to Washington?

13 A Not in any -- not in any technical way. I  
14 know that Mrs. Huber was in charge of the move, but I  
15 know nothing more than that.

16 Q Do you know anything about any  
17 shipment -- you've identified the one shipment of  
18 documents that Ms. Stewart was involved in.

19 Are you aware of any other shipments of  
20 documents from the Rose law firm to the White House  
21 residence -- strike that, let me repeat.

22 You've testified about Ms. Stewart's

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40

1 shipping two boxes of documents. Are you aware of  
2 any other shipments of boxes from the Rose law firm  
3 to the White House?

4 A As I sit here now, I don't recall. It's  
5 possible that some other educational files were  
6 shipped, I just -- I don't recall.

7 Q Okay. Just turning back to the -- what you  
8 call the junk room and Ms. Huber calls the book room,  
9 were there also a number of file cabinets in the  
10 room?

11 A I don't remember.

12 Q Do you recall seeing any vacation maps or  
13 just maps generally?

14 A There might have been some large political  
15 maps or other political memorabilia.

16 Q What was your understanding -- strike that.  
17 What was your understanding of the use to  
18 which this room was put as of August 1995?

19 A I don't think I had an understanding.

20 Q Okay. Okay. So when you were there in  
21 March '94, June/July '94, you had no understanding as  
22 to what the room was put to other than what you

1 perceived when you walked in?

2 A It was an attic or fibramebees closet.

3 Q And you had no understanding what  
4 Ms. Huber's role was with regard to this room?

5 A Not specifically, no.

6 Q And as to whether she, for example, as she  
7 testified would go to the room every three days and  
8 remove certain things and bring them down to her  
9 office?

10 A I simply had no understanding.

11 Q Okay. Let's go back to January 4.

12 MR. COLE: Before we go back to January 4,  
13 can I ask a follow-up question?

14 MR. GIUFFRA: Sure, Lance, and at any point  
15 if you want to speed up the process.

16 MR. COLE: Maybe it will be more efficient  
17 so that Mr. Kendall doesn't have to recall later.

18 The two boxes that you testified to,  
19 Mr. Kendall, that you reviewed and what you described  
20 as the junk room, did that review occur at about or  
21 the same time as the review of documents that you  
22 testified to that took place in the office adjoining

1 that room or is that at a different time?

2 THE WITNESS: I reviewed those two boxes  
3 twice. I reviewed the boxes once in March of 1994 in  
4 the junk room, and I reviewed the two boxes again in  
5 either June or July of '94 in the office.

6 Ms. Huber had them moved in for our review  
7 in the office, so I reviewed them in two different  
8 places at two different times.

9 MR. COLE: I understand.

10 BY MR. GIUFFRA:

11 Q Approximately how big were these boxes?

12 A Let me think. They were perhaps 3 feet  
13 worth of files, they were maybe, I don't know, a foot  
14 and a half wide and a foot high.

15 Q In terms of your review of documents in  
16 March of 1994, who else would have participated in  
17 that review?

18 A I did it alone.

19 Q And in the June/July review, was that  
20 also --

21 A My partner, Nicole Seligman, Silvija  
22 Strikis, Julie Ferguson, two paralegals, Mark Roth

1 and Denise Sidlar. I don't know that all of those  
2 were at the White House, but we were reviewing  
3 documents in a number of different places then.

4 Q Okay. In terms of the search in March of  
5 '94, though, when you said you looked at every scrap  
6 of paper in the office --

7 A No, that was in June, July '94.

8 Q So in June or July of 1994, you would have  
9 looked at every scrap of paper?

10 A That's correct.

11 Q That was not done only by you?

12 A No, in fact, it was done very little by  
13 me. By recollection is that Nicole Seligman and  
14 Silvija Strikis did most of that work. I did a  
15 little bit of it.

16 Q In the March '94 period, you reviewed which  
17 documents then?

18 A I reviewed the two boxes from the Rose law  
19 firm.

20 Q Just the two boxes. Did anyone else assist  
21 either you or your colleagues besides Mrs. Huber in  
22 either -- in reviewing these documents?

1 A Ms. Milli Austin also, it turned out, had  
2 some responsive documents, so she assisted us in  
3 identifying some documents.

4 Q Who is Milli Austin?

5 A Ms. Austin had been Mrs. Clinton's  
6 secretary at the Rose law firm. She now works in the  
7 east wing of the White House, and she had a few  
8 documents that were responsive to some of the  
9 document requests.

10 Q What were the nature of the documents that  
11 Ms. Austin had possession of?

12 A I can't remember all of them. There were  
13 some -- there was I think some correspondence and  
14 perhaps an index.

15 Q What was the nature of the correspondence  
16 that Ms. Austin had possession?

17 A I can't remember.

18 Q Did the correspondence relate to the Rose  
19 law firm or Madison Guaranty?

20 A I think it did -- it didn't relate to  
21 Madison Guaranty, to my recollection, but I think it  
22 did relate to the Rose law firm.

1 Q You have no other recollection as to how it  
2 might have related to the Rose law firm?

3 A Well, I think that the Amy Stewart letter  
4 was to Milli Austin that I described transmitting the  
5 documents, and there may have been other  
6 correspondence back and forth between Ms. Stewart and  
7 Ms. Austin.

8 Q And you mentioned an index, what was the  
9 index of?

10 A The index, as I recall, was a storage list  
11 of files that Mrs. Clinton had at the Rose law firm.

12 Q So Mrs. Clinton as of --

13 A There may have been other documents, I just  
14 don't recall.

15 Q This storage list -- does Mrs. Clinton --  
16 strike that.

17 In 1994 did Mrs. Clinton store documents at  
18 the Rose law firm?

19 A She did.

20 Q And, generally, what would be the nature of  
21 the documents that would have been stored at the Rose  
22 law firm?

1 A Very generally. They were her personal  
2 documents which she had not transported up to  
3 Washington. They would have been the miscellaneous  
4 files of her educational activities and things like  
5 that.

6 Q And those documents were stored at the Rose  
7 law firm storage facility?

8 A Some of them were at the remote storage  
9 facility, others of them were maintained at the  
10 firm. I think that arrangement may have changed over  
11 time.

12 Q Have you or anyone or has anyone at your  
13 direction ever searched for documents that might be  
14 responsive to the various subpoenas and requests  
15 relating to Whitewater, Madison -- strike that.

16 Has anyone -- have you or anyone at your  
17 direction ever searched for documents -- searched the  
18 documents that -- Mrs. Clinton documents that were  
19 stored at the Rose law firm for documents that might  
20 have been responsive to the various subpoenas?

21 A Yes.

22 Q And are those documents now in your



1 possession, all the documents?

2 A No, not all the documents, but the  
3 responsive documents, copies of them are in my  
4 possession.

5 Q When would you have searched for -- strike  
6 that.

7 When would you have searched for -- strike  
8 that, I'm sorry.

9 Do you recall approximately when you  
10 searched the documents that Mrs. Clinton had stored  
11 at the Rose law firm?

12 A I can recall at least three occasions, and  
13 there may have been more; one was in March of 1994,  
14 one was in July of 1994. It was a two-day period, a  
15 Friday and a Saturday, one was in either February or  
16 March of 1995.

17 Q Do you recall generally the nature of the  
18 documents that you found at the Rose law firm that  
19 were responsive to the various subpoenas?

20 A It would have depended on the requests.  
21 There were responsive documents insofar as they were  
22 responsive to the Senate's request, we had produced

---

1 them to you.

2 Q Okay. You don't recall anything more  
3 specifically about the nature of the documents that  
4 would have been responsive?

5 A Well, to the Senate's request, I can recall  
6 one 1987 document that appeared to have been  
7 misfiled, it was, in fact, a Madison Guaranty billing  
8 record, it was a record of telephone calls that were  
9 charged to the Madison Guaranty number in 1987, and  
10 that was an error.

11 As we all know, people often when there are  
12 code numbers make mistakes in coding things, so these  
13 telephone calls had popped up, and there was a  
14 search -- there was an effort made within the law  
15 firm to identify the client to whom those calls  
16 should be charged.

17 Q And the calls back in '87 were charged to  
18 Madison which was --

19 A They were erroneously to Madison. They  
20 apparently -- I think they were -- I think there were  
21 several pages devoted to this effort, and I believe  
22 the correct clients were finally identified.

1 Q And that document was not produced to us, I  
2 don't believe.

3 A It was indeed.

4 Q It was indeed.

5 A Um-hum.

6 Q Do you recall any other documents that  
7 might have been responsive to the Senate's subpoena?

8 A Well, I'm sure there were, Mr. Giuffra. I  
9 can't as I sit here -- we produced tens of thousands  
10 of documents --

11 Q I understand.

12 A -- I know there were, but I just can't  
13 recall which ones they are.

14 Q In reviewing the documents of the Rose law  
15 firm, did you review the personal files or did  
16 someone else?

17 A I did.

18 Q And did you identify any Madison Guaranty  
19 billing records other than this telephone record that  
20 you just mentioned?

21 A Not that I can recall.

22 Q Okay, let's go back to, sorry for the

1 detour, January 4, '96.

2 MR. GIUFFRA: Off the record.

3 (Discussion off the record.)

4 BY MR. GIUFFRA:

5 Q Returning to January 4, '96, during any of  
6 the conversations that you had with Ms. Huber, did  
7 anyone take any notes as best you can recall?

8 A Not that I can recall.

9 Q Was there any discussion at any time on  
10 January 4, 1996 of the need to notify the independent  
11 counsel of the discovery of these records?

12 A As I recall it, we discussed both in the  
13 hallway conversation, and then later after we had  
14 completed the review of the documents the need to  
15 notify not only the independent counsel, but the  
16 Senate, the House, the RTC.

17 Q And it's your recollection they were all  
18 sort of talked about together?

19 A Well, as I recall, we discussed it on two  
20 different occasions. We felt a need to have the  
21 documents copied and color copied, because some of  
22 the notes were in color, that proved to be a

1 difficult and ultimately time-consuming process.

2 Q Just so the record is clear, do you recall  
3 anything more -- strike that.

4 Now, the review process, that occurred in  
5 the same room where you were with Ms. Huber?

6 A No, we initially reviewed the documents in  
7 her office and then because that was somewhat  
8 cramped --

9 Q Then you moved down the hall?

10 A Then we moved down the hall.

11 Q And then you reviewed the documents with  
12 Ms. Huber?

13 A That's correct, page by page.

14 Q Do you recall anything that Mrs. Huber said  
15 as you reviewed the documents page by page?

16 A She answered questions, identified  
17 handwriting in many cases, was some help in  
18 explaining what the various entries meant. She was  
19 familiar with -- generally familiar with the Rose law  
20 firm's bookkeeping system and would answer questions  
21 about that system.

22 Q Do you recall anything more of the

---

1 discussion during the course of this review process?

2 A Well, as I say, she identified various  
3 people's handwriting.

4 Q Did she identify Mrs. Clinton's  
5 handwriting?

6 A She did. This was a Xeroxed -- I mean we  
7 were looking at a Xerox copy of the records on which  
8 some handwriting appears to be made in original ink.  
9 Mr. Foster's handwriting she identified, but  
10 Mrs. Clinton's handwriting appeared to be Xeroxed.

11 Q Approximately how long did the review  
12 process take?

13 A Thirty to 45 minutes.

14 Q And Mrs. Huber would have been present  
15 during the entire process?

16 A Yes.

17 Q Now, then there was a decision made that  
18 you needed to copy the documents --

19 A Yes.

20 Q -- before they would be produced to the  
21 various --

22 A Yes, there was a discussion at the end of

1 the review. As I recall, we went back into  
2 Mrs. Huber's office, both Ms. Huber and Ms. Sherburne  
3 tried to locate a color copying machine. Mr. Shulkey  
4 and I used the telephones in the outer office, and it  
5 took a while to figure out where the color copier was  
6 located.

7 We did have a discussion at some time  
8 during that period, Mr. Shulkey, Ms. Sherburne and I,  
9 as to who the two -- three of us that would produce  
10 the various documents to the various agencies.

11 Q And the decision was made that you would  
12 produce the documents?

13 A That's correct.

14 Q And what was the justification for that  
15 decision?

16 A I think that it was most appropriate for  
17 me, although it would have been appropriate for  
18 either Mr. Shulkey Ms. Sherburne to do it. It was  
19 most appropriate for me, because these were the kinds  
20 of documents that I would have been producing  
21 historically.

22 Q And that would be because these were

1 documents that related to matters that predated  
2 President Clinton's inauguration?

3 A That's correct.

4 Q Now, what do you recall about the  
5 discussion with regard to the actual decision whether  
6 to copy the documents or just turn them over?

7 A We were -- I don't recall very much about  
8 the specifics of the discussion, but we were all in  
9 agreement that the documents should be copied and  
10 made available to all of the investigative agencies.

11 Q And what do you recall, if anything, about  
12 any conversation in which there was concern about  
13 expressed -- strike that.

14 During any of the conversation that might  
15 have occurred amongst the three of you on the 4th,  
16 was there any discussion about the possibility that  
17 fingerprint evidence might be lost because of the  
18 copying process?

19 A I don't remember the specifics, but I do  
20 remember Ms. Sherburne's comment about whether we  
21 should be handling the documents; we discussed that  
22 question.



1 Q What do you recall about that discussion?

2 A I recall simply that she raised the point  
3 and we concluded that what we ought to do is make  
4 copies of the document and work -- make further  
5 copies from a copy, from a color copy, and that we  
6 ought to produce the documents as speedily as we  
7 could.

8 Q And you don't recall any further concern  
9 being expressed about the possible loss of  
10 fingerprint evidence from the copying process or  
11 various people handling?

12 A I don't.

13 Q Did you at that time think back to your own  
14 experience with regard to fingerprint evidence?

15 A I did not regard this as a forensic  
16 problem.

17 Q Okay. All right. During the period when  
18 Ms. Sherburne and Ms. Huber were attempting to locate  
19 a copy machine, you testified that you made some  
20 phone calls.

21 A Yes.

22 Q Do you recall who you might have called?

---

1 A I know that I was returning phone calls. I  
2 don't have a specific recollection of who they might  
3 have been. I talked to Ms. Seligman, I did hookup  
4 with her at that point. I don't recall who the other  
5 calls were to.

6 Q As best you recall, was Mrs. Clinton  
7 present in the White House on the 4th of January?

8 A She was at least in the morning.

9 Q Other than the call with Ms. Seligman, you  
10 can't recall any of the other calls?

11 A There were -- I returned at least five,  
12 six, seven phone calls. I think some of them may  
13 have been press calls which were very brief.

14 Q Okay. Then the four of you went to the new  
15 executive office building?

16 A That's correct.

17 Q Which there was a copy machine there that  
18 was located?

19 A It was a little more difficult than that.  
20 Mr. Shulkey and I were not government employees,  
21 therefore, we had to be cleared in. And, as I  
22 recall, there was a glitch of some kind when we got

1 there, Ms. Sherburne and Ms. Huber were able to zip  
2 right through, whereas Mr. Shulkey and I had to wait  
3 at least 15 minutes for our clearance to come through  
4 the computer.

5 Q Then there was a copying process that  
6 occurred?

7 A That's correct.

8 Q Approximately how long did that take?

9 A I think it took from two to three hours,  
10 more like three hours. The logs of the entry and  
11 exit at the new executive office building ought to  
12 show precisely when Ms. Huber and Ms. Sherburne went  
13 in and when they left. But my recollection is it was  
14 between more like three hours than two hours.

15 Q So when do you think you might have left  
16 the new executive building?

17 A I think I probably left around 10:00 or a  
18 little thereafter.

19 Q You left with the originals then?

20 A I did. I left with one copy and one  
21 original. Well, I had left earlier in the evening.  
22 Mr. Shulkey and I had gone back to Ms. Huber's office

1 and taken photographs and then we returned to the  
2 NEOB.

3 Q And these would be the photographs that you  
4 produced to the committee I believe it was yesterday?

5 A That's correct.

6 Q And what was the reason for taking the  
7 photographs?

8 A Simply to record the box that the documents  
9 were found in and the office of Ms. Huber.

10 Q On January 4, 1996, did anyone, to your  
11 knowledge, attempt to alert the independent counsel  
12 of the discovery of these billing records?

13 A No, we did that first thing on the next  
14 morning.

15 Q Okay. And were you the person who  
16 contacted the independent counsel?

17 A I was, although, Ms. Sherburne was on the  
18 conversation with me.

19 Q And you contacted Mr. Bates?

20 A That's correct.

21 Q It would be approximately 9:00,  
22 10:00 o'clock in the morning?

1 A Between 9:00 and 10:00.

2 Q And you advised them of the discovery of  
3 the records?

4 A That's correct.

5 Q Was there any discussion on the 4th of the  
6 need to contact the independent counsel before the  
7 copying process occurred?

8 A Not that I recall.

9 Q Was -- during the copying process, were the  
10 documents being handled by Ms. Sherburne and  
11 Ms. Huber?

12 A That's correct.

13 Q Now, did you speak to Mrs. Clinton at all  
14 on the following -- following the time when you were  
15 informed -- strike that.

16 Just on January 4, after you were advised  
17 by Ms. Huber of the discovery of the billing records,  
18 did you speak to Mrs. Clinton?

19 A I did not.

20 Q I want to be careful how I phrase these  
21 questions.

22 Do you have any understanding as to who

---

1 Ms. Sherburne may have contacted to inform them of  
2 the discovery of the billing records on -- strike  
3 that.

4 On January 4th, 1996, do you have any  
5 understanding who Mrs. Sherburne might have contacted  
6 to advise of the discovery of these billing records?

7 A I do not.

8 Q Did you direct anyone -- strike that.

9 Did you direct Ms. Seligman to advise  
10 anyone of the discovery of these billing records on  
11 January 4th?

12 A I did not.

13 Q Do you recall anything more about what  
14 Mrs. -- other than what you testified to about what  
15 Mrs. Huber might have said on the 4th, with regard to  
16 the discovery of these records?

17 A I think I've already indicated that she  
18 gave slightly different accounts of her reaction when  
19 she first saw the documents. At one point, I thought  
20 I understood her to say she saw the documents and  
21 they looked like Rose law firm billing records.

22 Q Meaning that when she saw them initially?

1       A   Initially. But at another point, I thought  
2 I understood her to say that it looked like just a  
3 sheaf of papers and she had no comprehension really  
4 of what they were.

5       Q   Do you recall anything else Mrs. Huber  
6 might have said of substance with regards to the  
7 circumstances surrounding the discovery of the  
8 billing records?

9       A   No. She was, as I've said, very vague and,  
10 again, we had really decided not to press her, to let  
11 Mr. Shulkey, her own lawyer, talk to her about the  
12 circumstances of the discovery.

13      Q   Now, when you had an opportunity to review  
14 these billing records on January 4th, did you deem  
15 them to be responsive to the Senate's subpoena?

16      A   I did not.

17      Q   You did not deem them to be responsive?

18      A   I did not.

19      Q   Why did you not deem them to be responsive  
20 to the Senate's subpoena?

21      A   The Senate subpoena calls for -- and I  
22 don't have it before me, if you could show it to me,

1 I'll tell you.

2       MR. GIUFFRA: Let's just go off the record  
3 for a second.

4       (Discussion off the record.)

5       BY MR. GIUFFRA:

6       Q   Mr. Kendall, I've just handed you a copy of  
7 the August 25th letter which Chairman D'Amato sent I  
8 believe to you.

9       A   Yes, I recognize this.

10      Q   And the subpoena basically just called for  
11 all documents that were set forth in the letter.

12      A   That's my recollection.

13      Q   Okay. And why do you believe that the  
14 subpoena did not call for the production of these  
15 Rose billing records?

16      A   Because it sought Madison records which  
17 were concerning the operations solvency and  
18 regulation of Madison. And I did not think the  
19 billing records were technically comprehended within  
20 that formulation.

21           That said we had in the past produced the  
22 one billing record I identified, and there was no



1 doubt in my mind that the records, whether called for  
2 or not by the subpoena, were of interest to the  
3 Senate and, therefore, we resolved to produce them as  
4 speedily as we could to the Senate.

5 Q Just so the record is clear. Why would you  
6 not consider these billing records to be responsive  
7 to the request seeking documents that reflect, refer  
8 or relate to any RTC investigation relating to  
9 Madison on Whitewater?

10 A Because I didn't think they fit that  
11 category.

12 Q And they would not be responsive -- they  
13 would not be -- they would not reflect, refer or  
14 relate to the operations of Madison or its  
15 regulations notwithstanding the fact that they  
16 identified various legal services provided by Rose in  
17 connection with certain transactions including --  
18 describing certain communications that Rose had with  
19 various state regulators?

20 A I did not think the documents were  
21 technically captured by the phrase regulation,  
22 operation and solvency or whatever the --

1 Q Operations or solvency.

2 A The August 25 letter formulation is, but as  
3 I've indicated, we were not trying to draw narrow  
4 technical lines. We previously produced the billing  
5 records we had found and we were aware, as I've said,  
6 that these were of interest to the Senate, so we  
7 promptly produced them.

8 Q In responding to this letter of October 30,  
9 1995, would you have been construing the subpoena in  
10 a broad manner or very hypertechnical matter?

11 A Well, I think we tried to be cooperative  
12 and we tried to produce documents, again, that we  
13 thought were called for by the subpoena, but we  
14 certainly were not trying to be hypertechnical.

15 Q Okay. Do you recall receiving a  
16 letter -- actually I think it was from me -- dated  
17 September 25, 1995.

18 A I do.

19 Q Do you recall the fact that that letter  
20 specifically asked for documents that reflect, refer,  
21 or relate to Rose's representation of Madison?

22 A It's not my recollection of the letter, if

1 I could look at it.

2 (Witness reviews the document.)

3 THE WITNESS: This letter relates back to  
4 the Chairman's August 25th letter, if I could just  
5 see that for a second.

6 (Witness reviews the document.)

7 THE WITNESS: Thank you.

8 Yes. Now, I'm sorry what was your  
9 question?

10 BY MR. GIUFFRA:

11 Q Would you have not -- strike that.

12 The September 25th letter specifically  
13 identified records relating to Rose's representation  
14 of Madison. And I think you would agree that the  
15 billing records would have been encompassed within  
16 that particular --

17 A No, I would not agree.

18 Q Okay. Why would you not agree?

19 A Because your September 25th letter relates  
20 to subpart H of the August 25 letter, and that  
21 subpart H relates to the policies and practices of  
22 the RTC and the federal banking agencies, as that

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66

1 term is defined in section 3 of the Federal Deposit  
2 Insurance Act regarding the legal representation of  
3 such agencies with respect to Madison.

4 So your September 25 letter when it  
5 mentions the Rose law firm's representation of  
6 Madison has to do with such things as the  
7 representation of the government agencies in the  
8 Frost or other litigation.

9 Q Now, you were aware in September of 1995 of  
10 the fact that the RTC and the FDIC were investigating  
11 possible conflicts of interest that the Rose law firm  
12 might have had with regard to its representation of  
13 the RTC in the Frost litigation?

14 A Well, I'm not going to speak to my -- I  
15 think that my awareness of issues does get into my  
16 mental impressions and work product. I can tell you  
17 what I did with regard to subpoena compliance.

18 Q Okay. And I ask this question -- this next  
19 question just to -- maybe we need to serve another  
20 subpoena.

21 Are you aware of any documents that would  
22 reflect, refer or relate to the Rose law firm's

1 representation of Madison that would be in the  
2 possession, custody or control of the President or  
3 Mrs. Clinton that have not been produced to the  
4 committee?

5 A I'm not aware.

6 Q That answers that question.

7 Now, the billing records, were they also  
8 responsive -- would they have been responsive to  
9 subpoenas or document requests served by other  
10 investigatory agencies?

11 A They would.

12 Q And which investigatory -- strike that.

13 Could you just state for the record what  
14 investigatory agencies they would -- subpoenas or  
15 requests by investigative agencies that they would  
16 have been responsible for?

17 A The independent counsel, the FDIC, and the  
18 RTC. Now, the RTC had gone out of business  
19 technically, as I understand, on December 31, but  
20 there were some functions still being discharged and  
21 those are being handled by the RTC.

22 But if these had been discovered at a time

1 when the RTC was still a live agency, the records  
2 would have been responsive also to RTC document  
3 requests.

4 Q So it would have been responsive to all  
5 three of those investigatory agencies?

6 A Yes.

7 Q When would the first subpoena or document  
8 request to which these records would have been  
9 responsive, when was that first served on the  
10 President and Mrs. Clinton?

11 A Well, if I had -- the first request would  
12 have been to me in my capacity as a lawyer, and that  
13 would have been December 24, 1993; if I had had them  
14 then, they would have been responsive.

15 Q That would have been a subpoena served by  
16 Mr. McKay of the Department of Justice?

17 A That's correct. And, again, I'm not going  
18 to get into the details of the independent counsel's  
19 investigation, but that, again, if I had had the  
20 documents back in December of 1993, they would have  
21 been responsive.

22 Q Yeah. I think I just wanted to get the

1 initial date. I have no interest in getting into all  
2 the various subpoenas you might have received, but I  
3 think to get the initial date, I think it's a fair  
4 point.

5 A I agree.

6 Q Just to be clear on the -- one other  
7 point. When you say that you wouldn't have any  
8 documents -- the President and Mrs. Clinton would not  
9 have any documents in their possession, custody or  
10 control that reflect, refer or relate to the Rose  
11 firm's representation of Madison that haven't been  
12 turned over --

13 A To my knowledge.

14 Q -- to the Senate, that's because you're  
15 construing, although you don't think technically  
16 within the call by our subpoena, you're construing  
17 the subpoena in such a way that it would encompass  
18 those documents?

19 A I'm not trying to be hypertechnical,  
20 because some of the agency demands are broader. I'm  
21 aware of no such documents.

22 Q Okay. But my point -- my question, though,

---

1 goes to, in construing the Senate's subpoena, you  
2 construed it to encompass these documents or at least  
3 you thought --

4 A No, I didn't -- I said that we produced  
5 them voluntarily. We have tried from the beginning  
6 to be cooperative, and we have not tried to draw  
7 hypertechnical lines, although we've been guided by  
8 what you've asked for.

9 And as I indicated before, we produced the  
10 billing records that I found in -- at the Rose law  
11 firm, you know, in one of our productions in the fall  
12 of 1995.

13 Q Let me just ask several more questions  
14 about this October 30 subpoena again. These are just  
15 in the realm of whether we need to serve another  
16 subpoena.

17 There's a request which calls for documents  
18 that reflect, refer or relate to bond underwriting  
19 contracts between ADFA and Lasate Company.

20 Do you recall that request?

21 A Yes.

22 Q Would you have produced to the company



1 documents that reflect, refer or relate something  
2 that's referred to a police radio network contact to  
3 the bond offer?

4 A I can't -- as I sit here, that is -- I  
5 believe we produced a lot of documents referring to  
6 that. In each of these categories, we've tried to  
7 fairly respond to the categories, and again we're  
8 dealing with tens of thousands of documents. We've  
9 produced more documents as they've come to our  
10 attention, and we'll continue to do so.

11 MR. GIUFFRA: Let's go off the record.

12 (Discussion off the record.)

13 BY MR. GIUFFRA:

14 Q This was another letter sent to you dated  
15 October 6th, 1995 from Chairman D'Amato and Senator  
16 Sarbanes. I will direct your attention to the second  
17 page, it asks for documents that reflect, refer or  
18 relate to or have any tendency to reveal the full  
19 facts about any of the following subjects, and  
20 subparagraph A2 specifies any communication, contact  
21 or meeting involving any real estate development  
22 corporation, joint venture or other business entity

1 in which Madison financial corporation, and then it  
2 goes on to say, or any subsidiary, affiliate or other  
3 entity owned or controlled by Madison or James  
4 McDougal had an investment or ownership interest  
5 including but not limited to, and the subparagraph,  
6 the real estate project.

7 Do you think these billing records would  
8 have been included in that?

9 A Can I see -- I don't know if this is the  
10 letter to me or to Mr. Tisdale or both.

11 Q It's to both.

12 A Okay.

13 (Witness reviews the document.)

14 THE WITNESS: This was a letter to  
15 Mr. Tisdale and me in what you believed to be our  
16 capacity as document custodians for the gubernatorial  
17 papers of William Jefferson Clinton and for the 1990  
18 William Jefferson Clinton gubernatorial campaign.

19 In the letter you indicated, and I quote,  
20 David Kendall has advised Robert Guiffra, chief  
21 counsel of the banking committee, that you or both,  
22 the letter is addressed to me and to Mr. Tisdale, the

1 document custodians for the gubernatorial papers of  
2 William Jefferson Clinton and for the 1990 Clinton  
3 gubernatorial campaign.

4 I think you and I had a miscommunication,  
5 because I had intended to tell you, and I do clarify  
6 this in a later letter in October that Mr. Tisdale  
7 and not me was the document custodian for both the  
8 Clinton gubernatorial papers and the 1990 campaign.

9 I think my letter is dated October 22nd or  
10 so. It was either with our second or third  
11 production. Our first production was I think  
12 September 22. My letter would have been after  
13 October 6th, but I think before the subpoenas.

14 Q Okay. So the document custodian, just so  
15 it's on the record, for the gubernatorial papers is  
16 Mr. Tisdale?

17 A That's correct, and the 1990 campaign, so  
18 that request --

19 Q And the '92 campaign?

20 A And the '92 campaign.

21 Q So you would just be the person to send  
22 requests to or subpoenas to in connection with the

1 personal papers of the Clintons?

2 A That's correct.

3 Q Okay. Just to try to speed up the  
4 process. Do you recall any of your conversations of  
5 substance you might have had with either Ms. Huber,  
6 Ms. Sherburne or Mr. Shulkey on the 4th that we  
7 haven't identified here today?

8 A I think we've at least touched on  
9 everything.

10 Q Now, on December 5th, you notified the  
11 independent counsel in the morning --

12 A January 5th.

13 Q -- excuse me, January 5th, I apologize. Did  
14 you notify Mrs. Clinton of the discovery of the  
15 records?

16 A Well, I'm not going to talk about my  
17 communications with Mrs. Clinton. Mrs. Clinton and I  
18 did have a conversation by telephone that morning and  
19 then I saw her later in the morning of January 5th.

20 Q Okay. Did you have a communication with  
21 President Clinton on the 5th?

22 A I did not.

1 Q Did you have a communication with any other  
2 member of the White House staff other than  
3 Ms. Sherburne on 9th?

4 A I did.

5 Q And who were those communications with?

6 A Jack Quinn.

7 Q Anyone else?

8 A Yes. Mark Fabriani, David Fine, and it's  
9 possible there were some other people. This was late  
10 in the afternoon of the 5th as we were trying to  
11 craft a statement, and I simply don't recall who was  
12 on the other end of the line.

13 Q This would have been a telephone call?

14 A It would have been a telephone call.

15 Q And was Mr. Quinn also a telephone call?

16 A Yes, it was.

17 MR. GIUFFRA: Let's just go off the  
18 record.

19 (Discussion off the record.)

20 MR. GIUFFRA: We just had a conference off  
21 the record, and Mr. Kendall is going to state his  
22 position with regard to what questions he will and

1 won't answer with regard to communications with White  
2 House staff or counsel, excuse me.

3 THE WITNESS: We've agreed to provide  
4 testimony concerning the discovery of the billing  
5 records. I think the logical definition of that is  
6 from the time I first saw them until the time they  
7 were produced to the Senate. I think events  
8 thereafter are not really reflective of the discovery  
9 of the billing records.

10 BY MR. GIUFFRA:

11 Q Just so we're clear, we've agreed -- is it  
12 that the President and Mrs. Clinton have instructed  
13 you not to assert any privileges or --

14 A Well, that's my understanding of the ground  
15 rules that we have talked about up until this point.

16 Q Just so the record is clear, and I don't  
17 want to get in a big thing about this.

18 I think it's important that, you know,  
19 there are no firm agreements or agreements of any  
20 nature that the Senate has entered into with regard  
21 to what it will investigate here.

22 What we've attempted to do is to be mindful



1 of, you know, various privileges that might be  
2 asserted by various parties and have attempted in a  
3 meeting that was held two days ago to ascertain what  
4 everyone's respective positions were with regard to  
5 the assertion of any privilege.

6 Okay. What do you recall about the  
7 communication you had with Mr. Quinn?

8 A It was very brief. I simply indicated to  
9 him that we had discovered what appeared to be copies  
10 of the Rose law firm billing records for the Madison  
11 Guaranty account and that we were producing them that  
12 day, the originals to the independent counsel, copies  
13 to the Senate, the House, the RTC and the FDIC.

14 Q Did you speak to anyone else at the White  
15 House on the 4th or 5th other than the people you've  
16 identified?

17 A No, not other than the people -- I can't  
18 recall other than the people I've identified.

19 Q Margaret Williams?

20 A No.

21 Q Okay. In June of 1994, did you attend a  
22 meeting with Ms. Sherburne and Mrs. Clinton at which

1 there was discussion -- strike that.

2 Actually at which there was  
3 discussion -- strike that, the whole thing.

4 Did you attend a meeting in June of 1994  
5 with Ms. Sherburne, Mrs. Clinton at which there was  
6 discussion of Rose law firm billing records including  
7 a billing recap, fee billing recap?

8 A No.

9 Q Do you ever recall attending a meeting with  
10 Ms. Sherburne in which Rose law firm billing records  
11 were discussed?

12 A Again, I'm going to respectfully decline to  
13 answer that, that gets into my investigation of the  
14 case, and it would compel me to produce mental  
15 impressions which is protected work product --

16 Q Okay.

17 A -- which are protected work product.

18 Q Have you had any discussions -- prior to  
19 January 4th, 1996, did you have any discussions with  
20 Ms. Huber about Rose law firm billing records?

21 A Again, the same -- if I can just have the  
22 same objection.



1 Q Okay. So just -- okay. Mr. Hubbell?

2 A The same objection.

3 Q Okay. So it would be the same objection to  
4 any --

5 A It would be the same objection, insofar as  
6 what I do to investigate what I consider to be  
7 relevant issues in representing a client, any client,  
8 that is my protected work product.

9 Q Okay. Would that include any  
10 communications you might have had with Ms. Huber  
11 trying to locate Rose billing records?

12 A We have -- I think if that question is  
13 phrased in terms of subpoena compliance, I would not  
14 object to it.

15 Q Okay. Let me see if I can phrase all these  
16 questions in terms of -- what I'll do is I'll set  
17 forth the question in broad, and then I'll just read  
18 off some names.

19 A I want to get the question.

20 Q Okay. In attempting to respond to  
21 subpoenas or document requests calling for documents  
22 bearing on Whitewater, Madison-related matters --

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1 strike that.

2 All right. In responding to subpoenas or  
3 requests of investigatory agencies calling for Rose  
4 law firm records, have you spoken to Ms. Huber?

5 A Yes.

6 Q Okay. Do you recall when you might have  
7 spoken to Ms. Huber?

8 A This would have been in June of 1994.

9 Q And do you recall what Mrs. Huber might  
10 have said to you about the possible existence of Rose  
11 law firm records?

12 A Again, I think it was probably earlier  
13 also, probably in March or May as well, I indicated  
14 to her what I was looking for and she responded to my  
15 request.

16 Q And among the types of documents you would  
17 have been looking for would have been Rose law firm  
18 records?

19 A Well, not necessarily, it would have been  
20 records having to do with Madison Guaranty and some  
21 other kinds of records. Again, I don't want to pin  
22 it down, but Ms. Huber would have given me guidance

1 as to what documents, if any, she had, or if he she  
2 would have provided me with her other knowledge of  
3 the Rose law firm, Ms. Austin and perhaps others.

4 Q You don't recall anything further about the  
5 substance of those communications?

6 A No.

7 Q In responding to subpoenas or requests of  
8 investigatory agencies calling for Rose law firm  
9 records, have you spoken to Mr. Hubbell?

10 A No.

11 Q Now, there came a time when Mr. Hubbell  
12 provided you with certain -- did there ever come a  
13 time when Mr. Hubbell provided you with any Rose law  
14 firm records?

15 A Again, I'm going to keep this focused on  
16 what I've already testified to, because it did arise  
17 last year as, you know, yes, there came a time when  
18 Mr. Hubbell provided me with a number of documents,  
19 among which were three files which I identified as  
20 original Rose law firm records of the Madison  
21 Guaranty representation.

22 Q Just so the record is clear. I believe,

---

1 Mr. Kendall, you spoke at the hearing but were not  
2 under oath with regard to --

3 A I did speak at the hearing. I was not  
4 formally sworn, my testimony would not vary.

5 Q Okay. In responding to subpoenas or  
6 requests of investigatory agencies calling for Rose  
7 law firm records, have you spoken to Betsy Wright and  
8 by you, I mean you or anyone at Williams and  
9 Connolly?

10 A Well, I can't speak for everyone at  
11 Williams and Connolly. Certainly we would have  
12 spoken to Ms. Wright and her counsel in terms of  
13 complying generally with subpoenas, but I have no  
14 recollection of anything specific about Madison  
15 Guaranty.

16 Q In responding to the subpoenas or requests  
17 of investigatory agencies calling for Rose law firm  
18 records, would you have spoken to Susan Thomases?

19 A I don't think so -- well, excuse me. It's  
20 possible that because she had worked some on  
21 Whitewater during the campaign, I might have asked  
22 her the location of whereabouts of documents. I

1 think I probably did, in fact.

2 Q Do you recall anything that Ms. Thomases  
3 might have told you about the location, whereabouts  
4 of documents?

5 A I think she said I should check with Jim  
6 Lyons.

7 Q In responding to subpoenas or requests of  
8 investigatory agencies calling for Rose law firm  
9 records, have you spoken to Mr. Lyons?

10 A Not for Rose law firm records.

11 Q Okay. Those would have just been  
12 Whitewater records?

13 A Yes.

14 Q And with Ms. Thomases, you think you might  
15 have mentioned to her the Rose law firm or the  
16 Madison --

17 A I may have misunderstood. I thought your  
18 question to Ms. Thomases was any records, and I  
19 thought I said Whitewater records.

20 Q Okay. In responding to subpoenas or  
21 requests of investigatory agencies calling for Rose  
22 law firm records, would you have spoken to Mr. Ron

1 Clark?

2 A Yes.

3 Q Do you recall anything about any  
4 communications you had with Mr. Clark?

5 A It was really to get whatever guidance he  
6 could give me as to the personal files that were  
7 stored at the Rose law firm.

8 Q Do you know a man named Austin Jennings?

9 A I do. Austin Jennings, Senior or Junior?

10 Q Senior.

11 A I do.

12 Q Have you had any communications with  
13 Mr. Jennings regarding Rose's representation of  
14 Madison?

15 A I have.

16 Q And you would assert work product  
17 privilege?

18 A I would assert work product privilege. As  
19 to the substance, as to the, you know, the  
20 surrounding circumstances which would allow you to  
21 establish that the claim was well taken, I would  
22 not.

1 Q Okay. Why don't you just state for the  
2 record what the circumstances surrounding your  
3 communications with Mr. Jennings were with regard to  
4 Rose's representation of Madison?

5 A I didn't really have questions from  
6 Mr. Jennings, it was from Mr. Seth Ward. It occurred  
7 in January of this year, in Little Rock.

8 Q Do you recall -- would this have been  
9 before or after the discovery of the Rose billing  
10 records?

11 A It would have been after, about a week  
12 after.

13 Q Have you had any communications with  
14 Mr. Rick Massey about Rose's representation of  
15 Madison?

16 A No.

17 Q Have you had any communications with  
18 Mr. Webster Hubbell about Rose's representation of  
19 Madison?

20 A Yes.

21 Q Again, in terms of timing?

22 A November of 1993.

1 Q And as to the substance, again work  
2 product?

3 A It would be work product.

4 Q Have you had any communications with Susan  
5 Thomases about Rose's representation of Madison?

6 A I don't believe so.

7 Q Do you know a man named Richard Donovan,  
8 he's a lawyer at the Rose firm?

9 A No -- I know the name Richard Donovan, but  
10 I've had no communication with him.

11 Q Thomas Thrash, have you had any  
12 communication with him?

13 A No.

14 Q James McDougal?

15 A No.

16 Q Sam Huwer?

17 A Yes.

18 Q Have you had any communications with  
19 Mr. Huwer?

20 A Individual communications --

21 Q I'm going to ask --

22 A All of that is privileged.



1 Q Okay. Whether you've had communications  
2 or --

3 A I'm not going to get into what I've done,  
4 even the people -- further than this, even the people  
5 I talked to to represent my clients.

6 Q Okay.

7 A I think the choice of -- I mean I thought  
8 we were limiting this to Rose billing records, but  
9 when we move to Mr. Huwer, we've moved out of that  
10 area.

11 Q That was going to be my question.

12 A Okay.

13 Q Have you had any communication with  
14 Mr. Huwer about Rose's representation of Madison?

15 A Not that I can recall.

16 Q Have you had any communications with  
17 Beverly Bassett about Rose's representation of  
18 Madison?

19 A No -- wait a minute. I can't recall. I've  
20 spoken to her I believe on one occasion, and I cannot  
21 recall, and, again, I'm not going to get into the  
22 substance of it.

1 Q I understand. Do you recall the  
2 approximate time?

3 A Not recently.

4 MR. SUNDERMEYER: That's privileged.

5 THE WITNESS: Okay.

6 BY MR. GIUFFRA:

7 Q In responding to subpoenas or requests of  
8 investigators calling for Rose law firm records, can  
9 you recall anyone else you might have spoken to?

10 A I'm sure there were others, I just can't  
11 recall them.

12 Q But the names you can recall we've already  
13 hit upon.

14 Are you familiar with an RTC Inspector  
15 General report regarding conflicts at the Rose law  
16 firm that was issued -- that is dated August 3, 1995?

17 A Again, what I'm familiar with in terms of  
18 my representation of these clients in this case is I  
19 believe protected by the work product privilege.

20 Q Okay. Mr. Kendall, just to generally go  
21 into the question of search protocol which we've  
22 already covered, but just to fill in any blanks.

1           It's my understanding that documents that  
2 might be contained on the second and third floor of  
3 the White House residence would fall within your line  
4 of responsibility?

5       A    The personal Clinton documents would fall  
6 within my area of responsibility.

7       Q    And that would be the only type of document  
8 that would fall within your line of responsibility?

9       A    That's correct.

10      Q    And I believe you've said that you searched  
11 documents that were in the office on the third floor  
12 of the residence?

13      A    That's correct.

14      Q    The two boxes that Mrs. Huber identified in  
15 the book or junk room, depending on ones --

16      A    And other boxes, I mean we talked to  
17 Ms. Huber and searched. She was really knowledgeable  
18 about the universe of documents and would provide us  
19 with such documents as she believed relevant for our  
20 review.

21      Q    Okay. And you've also searched the  
22 documents that were at the Rose law firm in Little

1    Rock?

2       A    That's correct.

3       Q    Are there any other steps that you might  
4 have taken in terms of complying with subpoenas or  
5 document requests?

6       A    Yes. There were storage facilities for the  
7 gubernatorial documents.

8       Q    Which is located where?

9       A    In Little Rock. The accountant --

10      Q    Was that searched personally by you?

11      A    Yes and by others. The CPA for the  
12 Clintons.

13      Q    Is that Yoley Redin?

14      A    Yoley Redin.

15      Q    You would have searched her documents?

16      A    Yes. Again, we received certain documents  
17 as you know from the White House in July of 1993,  
18 those have been searched. I --

19      Q    Those would be the documents from  
20 Mr. Foster's office?

21      A    That's correct. I also have obtained  
22 documents from Mr. Hubbell, as you know, Mr. Lyons,

1 Mr. Tisdale, Ms. Wright, and I'm sure there are also  
2 others that have been searched.

3 Q And insofar as you're aware, these  
4 documents were not among -- strike that.

5 The documents that you produced on January  
6 5, 1996 to the Senate were not among any of the  
7 documents that you received --

8 A That's correct.

9 Q -- from any of these people? Okay.

10 Mr. Kendall, do you have any information that would  
11 indicate that the Rose billing records that you  
12 produced on January 5, 1996 to the Senate were ever  
13 in Mr. Foster's office at the White House?

14 A I do not.

15 MR. GIUFFRA: Let's go off the record for  
16 just a second.

17 (Discussion off the record.)

18 BY MR. GIUFFRA:

19 Q Mr. Kendall, in connection with responding  
20 to subpoenas or requests for investigators calling  
21 for Rose law firm records, in view of the fact that  
22 you were not able to locate the documents that were

1 produced on January 5, 1996, do you have any  
2 information regarding the circumstances that allow  
3 those documents to -- do you have any information  
4 regarding the circumstances under which these  
5 documents were found in -- strike that.

6 Okay. Mr. Kendall have you attempted to  
7 ascertain why you were not able to locate the  
8 documents that were produced on January 5, 1996 to  
9 the Senate in your prior searches?

10 A It's plainly work product.

11 Q Mr. Kendall, do you have any  
12 information -- hang on.

13 (Pause.)

14 BY MR. GIUFFRA:

15 Q Do you have any information regarding the  
16 chain -- strike that.

17 MR. GIUFFRA: Let's go off the record.

18 (Discussion off the record.)

19 BY MR. GIUFFRA:

20 Q Okay. With regard to the chain of custody  
21 of these documents, up to January 4, 1995, you've  
22 already testified to the full extent of your

1 knowledge with regard to that matter?

2 MR. COLE: January 4, 1996.

3 BY MR. GIUFFRA:

4 Q '6, excuse me.

5 A That's correct.

6 Q Do you have any information with regard to  
7 anyone -- whether anyone, other than your  
8 client -- other than your clients withheld the  
9 billing records from production in response to a  
10 subpoena?

11 A I've given you the information I have about  
12 the billing records discovered.

13 Q I apologize if I'm repeating anything.  
14 Have you testified fully with regard to  
15 searches that you would have conducted at the White  
16 House residence for documents that would be  
17 responsive?

18 A Well responded. I don't know what the word  
19 fully means. I've responded to your questions.

20 Q Are there any other searches that you would  
21 have undertaken other than the ones you've testified  
22 to?

1 A I've just -- I have testified to the major  
2 searches in response to the demands of investigative  
3 agencies, certainly there are other searches,  
4 requests for information, requests for documents.

5 Q In responding to subpoenas calling for Rose  
6 law firm records, have you spoken to William Kennedy?

7 A I've spoken to Mr. Kennedy, but I don't  
8 believe about subpoena compliance matters. I'm  
9 sorry, subpoena -- I'm responding to your question.  
10 Subpoena compliance matters involving the existence  
11 of Madison billing records.

12 Q Would you have spoken to him with regard to  
13 subpoena compliance matters regarding other records?

14 A I think so.

15 Q And questions about that would be work  
16 product?

17 A Yes.

18 Q Okay. In attempting to respond to  
19 subpoenas or document requests calling for Rose law  
20 firm records, did you speak to Bruce Lindsey?

21 A I don't believe so.

22 Q Bernard Nussbaum?



1 A I don't believe so.

2 Q Loretta Lynch?

3 A No.

4 Q Let me just show you a record, Mr. Kendall,  
5 it bears Bates number S20085. It's dated 8/10/95,  
6 it's an entry and exit record for the White House.

7 A I see the record.

8 Q Do you have any knowledge as to  
9 whether -- as to why Mr. Jennings would have been at  
10 the White House on 8/10/95?

11 MR. COLE: If I could interrupt the witness  
12 for a moment, and Mr. Giuffra may not be aware of  
13 this since Mr. Jennings gave his deposition yesterday  
14 afternoon, but he did testify at some length about  
15 this meeting.

16 You may still want to explore it with  
17 Mr. Kendall, but there is a record in the  
18 committee's --

19 THE WITNESS: Well, I recall going to the  
20 White House with Austin Jennings sometime in August,  
21 the reason I went is protected work product. But  
22 this is a classical example where if you interview

1 Mr. Jennings, I believe you can find out about his  
2 recollections of the meeting.

3 BY MR. GIUFFRA:

4 Q Let me show you another record S20001.  
5 It's a record of the White House dated July 20,  
6 1993.

7 A I'm sorry, you said 1993?

8 Q It's '94, excuse me, it's been a long day.

9 A I'm sorry, what is the year?

10 Q '94.

11 A '94?

12 Q Excuse me, it's '95, I apologize.

13 A '95.

14 Q I apologize. These are all '95. I  
15 apologize.

16 A I see the page.

17 Q Do you recall who the four other persons  
18 would have been with you on July 20, 1995?

19 A I do not.

20 Q Do you recall who you might have been  
21 visiting on that date?

22 A I do not.

1 Q I'll show you another record which  
2 indicates -- this is S20002, July 21, 1995, it  
3 indicates you went to the second floor of the White  
4 House with another person at 12:25 p.m., it's unclear  
5 when you went down, and then you went back up again  
6 at 3:01, went down at 4:37.

7 A I see the record.

8 Q Any recollection who the other person might  
9 have been?

10 A I do not.

11 Q Another record S20003, a record July 22,  
12 1995, it indicates you went to the second floor to  
13 see Mrs. Clinton at 11:27 -- just forget about this  
14 record, strike that.

15 A Is that the one that shows the independent  
16 counsel is there?

17 Q Yes.

18 A In other words, Judge Star I take it is  
19 within the realm of your scrutiny?

20 Q That's a theory I have not heard yet. I'm  
21 sure in some quarters that might be a theory.

22 S20321. This is August 11, 1995.

1 MR. SUNDERMEYER: We're at the 10-minute  
2 mark guys just for planning purposes.

3 MR. GIUFFRA: Excuse me?

4 MR. SUNDERMEYER: I say we're at the  
5 10-minute mark --

6 MR. GIUFFRA: I think we're almost done.

7 MR. SUNDERMEYER: -- for planning purposes.

8 MR. COLE: Can we go off the record for a  
9 minute while you look at the document. I have one  
10 area of questioning they may want to confer.

11 BY MR. GIUFFRA:

12 Q This indicates that Mr. Barnett and  
13 Ms. Williams went to the second floor of the White  
14 House at 2:20 p.m.

15 A On what date?

16 Q 1995.

17 A I'm sorry, what's the date?

18 Q August 11. Do you have any information  
19 about that meeting?

20 A I do not.

21 Q Okay. Just one last question. In  
22 responding to subpoenas and document requests seeking

1 Rose law firm records, would you have spoken to  
2 Margaret Williams?

3 A I don't think so.

4 MR. GIUFFRA: Okay. Thank you very much,  
5 Mr. Kendall, I have no further questions.

6 THE WITNESS: Thank you.

7 EXAMINATION

8 BY MR. COLE:

9 Q Mr. Kendall, I wanted to ask some  
10 additional questions on the subject that Mr. Giuffra  
11 touched on earlier concerning the meeting with Austin  
12 Jennings, Senior that you testified to about a week  
13 after the discovery of the Rose law firm billing  
14 records in the White House, if I understood your  
15 testimony correctly.

16 And I wanted to ask my questions in a way  
17 that does not impinge upon any work product  
18 protection that your activities may enjoy.

19 Why don't we go off the record for a moment  
20 and discuss that?

21 (Discussion off the record.)

22 BY MR. COLE:

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1 Q Do you recall meeting with Mr. Seth Ward in  
2 Little Rock in January 1996?

3 A I do.

4 Q Do you recall whether that meeting occurred  
5 before or after the discovery of the Rose law firm  
6 billing records in the White House on January 4th  
7 that you've testified about here today?

8 A It occurred one week after the discovery of  
9 the billing records in Little Rock on January  
10 the 11th, 1996.

11 Q And is that the only time that you have  
12 ever met with Mr. Ward?

13 A I was introduced to Mr. Ward at a  
14 restaurant once very briefly in 1994, that  
15 introduction lasted perhaps 15 seconds. This is the  
16 only time I've met and really spoken with Mr. Ward in  
17 any substantive way.

18 Q And that meeting occurred as you've  
19 testified on January 11th, 1996?

20 A It did.

21 MR. COLE: Okay. I don't have anything  
22 further.

1           MR. GIUFFRA: That concludes the  
2 deposition. Thank you very much for your  
3 cooperation.

4           THE WITNESS: Thank you.  
5           (Thereupon, at 5:51 p.m., the deposition  
6 was concluded.)

7  
8 -----  
9           DAVID EVAN KENDALL  
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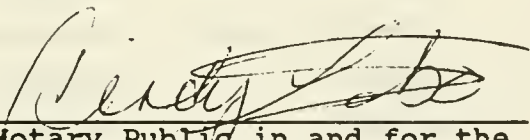


CERTIFICATE OF NOTARY PUBLIC & REPORTER

102

I, CINDY L. SEBO, the officer

before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires FEBRUARY 14, 2000

DEPONENT David E. KendallERRATA

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
6	11	both the criminal	both criminal	mistranscription
10	14	photographs	photocopies	mistranscription
13	9	document	documents	misspelling
13	11	I think I	I think I had	mistranscription
14	21	Shulkey	Schuelke	misspelling
15	20	Shulkey	Schuelke	misspelling
16	6	Shulkey	Schuelke	misspelling
17	18	Shulkey	Schuelke	misspelling
17	20	I hope	I hoped	misspelling
18	9	Shulkey	Schuelke	misspelling
19	4	I was at, I	I was at. I	misspelling
22	5	Shulkey	Schuelke	misspelling
24	3	Shulkey	Schuelke	misspelling
29	8	clients	client	misspelling
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42	22	Roth	Rolfe	misspelling
43	1	Sidlar	Zdelar	misspelling
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61	11	Shulkey	Schuelke	misspelling
62	17	operations solvency	operations, solvency	mistranscription
62	21	said we	said, we	mistranscription
75	8	Fabriani	Fabiani	misspelling
81	1	if he she	if she	mistranscription
81	17	as, you know, yes	year. Yes	mistranscription
82	4	sworn, my	sworn, but my	mistranscription
82	22	of	or	misspelling
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84	19	you know, the		mistranscription
86	16	Hewer	Heuer	misspelling
87	9	Hewer	Heuer	misspelling
90	14	Yoley	Yoly	misspelling
93	12	discovered.	discovery.	misspelling
93	18	Well responded	Well I responded	mistranscription
95	20	Austin	Alston	misspelling
95	21	the reason	but the reason	mistranscription
97	18	Star	Starr	misspelling





**DEPOSITION OF ROBERT L. SNIDER  
IN RE: S. RES. 120**

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**MONDAY, FEBRUARY 5, 1996**

**U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
Washington, DC.**

Deposition of ROBERT L. SNIDER, called for examination pursuant to notice of deposition, at 10:05 a.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

**MICHAEL P. O'CALLAGHAN, Esq.  
Majority Associate Special Counsel  
MITCHELL FEUER, Esq.  
Minority Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.**

**ALAN STRASSER, Esq.  
Kutak Rock  
1101 Connecticut Avenue, NW  
Washington, DC 20036-4374  
On behalf of the Deponent.**

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## 1 P R O C E E D I N G S

2 Whereupon,

3 ROBERT L. SNIDER

4 was called as a witness and, having first been duly  
5 sworn, was examined and testified as follows:6 MR. STRASSER: Would you be good enough to  
7 put on the record the time we are starting this  
8 deposition.9 MR. O'CALLAGHAN: Sure. It is 10 minutes  
10 after -- it is seven minutes after 10 on Wednesday,  
11 February 7.

## 12 EXAMINATION

13 BY MR. O'CALLAGHAN:

14 Q Good morning, Mr. Snider. My name is  
15 Michael O'Callaghan. I am associate special counsel  
16 for the Senate Special Committee for the Majority.  
17 To my left Mr. Feuer, counsel for the Minority.18 This deposition is being conducted pursuant  
19 to Senate Resolution 120. The Resolution establishes  
20 a special committee headed by the Banking Committee  
21 to conduct an investigation into Whitewater  
22 Development Corporation, Madison Guaranty Savings &1 Loan Association, Capital Management Services,  
2 Incorporated, the Arkansas Finance Development  
3 Authority and other related matters. These issues  
4 will be the main focus of today's deposition.5 This deposition is in advance of public  
6 hearings, which most likely will occur at the end of  
7 this month.8 We will ask you a series of questions. You  
9 are testifying under oath. You were sworn in. If  
10 you don't understand the question, let us know and we  
11 will be happy to rephrase the question for you. If  
12 you need to take a break, let us know and we will be  
13 happy to accommodate you.14 The stenographer is preparing a record of  
15 questions and answers. The deposition will be  
16 treated as committee confidential until the  
17 commencement of the hearings. Prior to the hearings  
18 you will be given an opportunity to review your  
19 deposition transcript.20 What we have been doing with witnesses that  
21 aren't in the Washington area, we have been sending  
22 them to you so you can look at them and also provide

1 you with an errata sheet if you want to make any  
2 changes to the text that you believe are in error.

3 You may be represented by counsel. Are you  
4 represented by counsel today?

5 A Yes.

6 MR. O'CALLAGHAN: Counsel, please identify  
7 yourself and the name of your firm.

8 MR. STRASSER: I am Alan Strasser. My firm  
9 is Kutak Rock.

10 BY MR. O'CALLAGHAN:

11 Q Objections to the form of questions will be  
12 noted for the record. Counsel may object on grounds  
13 of privilege or relevance. The committee chairman  
14 may rule on objections where the witness refuses to  
15 answer a question.

16 Please state and spell your full name for  
17 the record.

18 A Robert L. Snider, S-n-i-d-e-r.

19 Q Have you spoken with anyone other than your  
20 counsel here today about your deposition today?

21 A Have I spoken to anyone?

22 Q With regard to your appearance here today.

---

1 A Have I spoken to anyone about my  
2 appearance? Some people in my office know I was  
3 coming up here. I told my boss I was going to be out  
4 of town, those kinds of things.

5 Q Anyone else?

6 A No.

7 Q Did you speak with anyone about what the  
8 potential substance of your testimony would be here  
9 today?

10 A Only people on my staff.

11 Q What was the nature of the discussions you  
12 had?

13 A Just to make sure that I had an accurate --  
14 I just went back through my files and talked to some  
15 of the people on the staff who worked on some of  
16 these matters with me.

17 Q You reviewed documents to prepare for the  
18 deposition?

19 A Yes.

20 Q These are files that you maintained?

21 A Right. Well, maintained by my company.

22



1

2 Q What is your present business address?

3 A Business address is 100 Morgan Keegan

4 Drive, Little Rock, Arkansas.

5 Q Who do you presently work for?

6 A Morgan Keegan.

7 Q What business are they involved in?

8 A Investment banking.

9 Q How long have you been with the firm?

10 A I joined T.J. Raney & Sons on January 3,  
11 1979, and it was acquired by Morgan Keegan  
12 approximately six years ago. Now we operate as a  
13 division of Morgan Keegan.

14 Q What is your present position?

15 A Managing director.

16 Q Could you give me a brief description of  
17 your employment history. First of all, have you  
18 graduated from college?

19 A Yes.

20 Q Where did you attend college?

21 A Undergraduate at Ouachita Baptist  
22 University, MBA at the University of Arkansas.

8

1 Q When did you complete your MBA?

2 A That would have been the end of 1968.

3 Q Give me a brief description of your  
4 employment from 1968 through 1976.

5 A Two years in the United States Army, second  
6 lieutenant, Fort Benning, Georgia. In 1971, came to  
7 Washington and was on the staff of Senator John L.  
8 McClellan. From '71 until he died in '77, his  
9 appointed successor was Senator Kaneaster Hodges, to  
10 fill the unexpired term of Senator McClellan.

11 I came back to Washington with Senator  
12 Hodges for that period of time before joining T.J.  
13 Raney & Sons in 1979.

14 Q What positions have you held at T.J. Raney  
15 & Sons?

16 A I was hired initially in '79 as a public  
17 finance investment banker. About in 1982 or '83, I  
18 was made head of the public finance department at  
19 T.J. Raney & Sons. I basically have been head of  
20 public finance for T.J. Raney & Sons since.

21 When Morgan Keegan acquired T.J. Raney &  
22 Sons, they left me in that position as head of public

1 finance. And now as a managing director with Morgan  
2 Keegan, I have retained that responsibility in  
3 Arkansas, Louisiana and Texas.

4 Q During the period of January 1983 through  
5 to December 1986, who did you report to at T.J.  
6 Raney?

7 A To the president of the company, Tom  
8 Raney.

9 Q Did you supervise anyone during that time  
10 period?

11 A I was made head of the department. The  
12 public finance bankers and staff.

13 Q How many people would you say you  
14 supervised?

15 A I would say we probably had six to seven  
16 bankers during that time, and support people and  
17 secretaries, probably our staff was 12, 13 folks.

18 Q Did you have anyone who was a specific  
19 deputy for you?

20 A No.

21 Q Could you give me a fuller description  
22 of -- again, this is during the specific time period

---

10

1 January '83 through December 1986 -- what your  
2 specific responsibilities were as the head of public  
3 finance for T.J. Raney.

4 A During that time period, our territory was  
5 the state of Arkansas, municipal issuers in the state  
6 of Arkansas, issuers of tax-exempt bonds like schools  
7 and water and sewer systems and hospitals,  
8 et cetera.

9 Our mission was to serve them and to assist  
10 them in financing projects that could be financed  
11 with tax-exempt bonds. Our people on our staff  
12 actually -- we were in the professional structuring  
13 of bond issues.

14 Q Did you do any lead underwriting work on  
15 any bond issues during that time period?

16 A Yes.

17 Q Do you recall what issues you acted as lead  
18 underwriters during that? Give me a rough number.

19 A It would be hard. During any one year, we  
20 might work on 50 to 100 transactions. A lot of times  
21 we would be financial adviser. Sometimes we would be  
22 lead. A lot of times we would be co-manager.

1 Q Were you involved in your company's efforts  
2 to give bond underwriting contracts with the Arkansas  
3 Housing Development Agency and the Arkansas  
4 Development Finance Authority?

5 A Would you say that again.

6 Q Were you involved in your company's efforts  
7 to enter into contracts to do bond underwriting for  
8 offerings done by the Arkansas Housing Development  
9 Agency and the Arkansas Development Finance  
10 Authority?

11 A Yes.

12 Q Who did you deal with at the Arkansas  
13 Housing Development Agency in connection with that?

14 A Are we talking about a specific period of  
15 time here?

16 Q Again, this is, say, January '83 through  
17 December 1986.

18 A We were members of the single-family and  
19 multifamily account of Arkansas Housing Development  
20 Agency and the Development Finance Authority, their  
21 successor, and I think we had been in all  
22 single-family bond issues of the agency since its

1 inception in 1978, as well as I think we have been in  
2 all multifamily issues of the agency.

3 We were involved, of course -- we attended  
4 monthly meetings, public meetings. There have been  
5 several directors of the Authority since its  
6 inception in '78. We have had personal and  
7 professional relationships with them and their staff  
8 since. They are an important client of ours.

9 Q How did T.J. Raney first come to become  
10 part of the single-family, multifamily accounts?

11 MR. STRASSER: Could you explain how this  
12 is within the scope of the Resolution.

13 MR. O'CALLAGHAN: T.J. Raney was involved  
14 with a number of -- I believe, and correct me if I'm  
15 wrong -- underwriting teams with regard to the  
16 Arkansas Development -- Housing Development Agency as  
17 well as the Arkansas Development Finance Authority  
18 and also was involved with a number of  
19 underwriting -- with Lasater & Company.

20 In order to get an idea for what the  
21 relationship was with the Arkansas Development  
22 Finance Authority and Lasater & Company, part of that



1 is looking at the different entities and individuals  
2 involved in the underwriting contracts and issuances  
3 that were done by the authority.

4 To the extent that T.J. Raney & Company  
5 were involved with it, I might get an idea for how  
6 the relationships were set up and how the operation  
7 of the whole structure worked. That's a general  
8 explanation for how it is within the scope.

9 MR. STRASSER: Okay.

10 BY MR. O'CALLAGHAN:

11 Q The last question I posed, and if it is too  
12 general you need me to be more specific, let me know,  
13 it was a question with regard to how T.J. Raney &  
14 Company became part of the single-family and  
15 multifamily accounts for AHDA initially; right?

16 A Right. Back in 1978, when housing bonds  
17 were created, it is conjecture as to who exactly did  
18 that, who did the first deal, T.J. Raney & Sons and  
19 Stephens, Inc., and this was prior to my employment  
20 there, but they were actually instrumental, I have  
21 been told, in the legislation that created AHDA.

22 When I came onboard, I think one issue had

1 already been completed with the financing team, E.F.  
2 Hutton, Stephens, Inc. and T.J. Raney & Sons, and  
3 that was the initial team for single-family and  
4 multifamily bond issues.

5 So, I would say since the inception of  
6 AHDA, T.J. Raney & Sons and Stephens and E.F. Hutton  
7 were actively involved in the bond issues of AHDA.

8 Q With regard to the different single-family  
9 and multifamily offerings that were done by AHDA and  
10 I guess later ADFA, ADFA, were the different  
11 underwriters requires to submit proposals for each  
12 one of those offerings, or were some firms exempt  
13 from doing that?

14 A I recall several occasions where we would  
15 have to present qualifications and ideas specifically  
16 on multifamily finance. I think the single-family  
17 team, at least for the first couple of years, was  
18 pretty well Hutton and Raney and Stephens, but I know  
19 when the first multifamily team was composed, we did  
20 submit proposals and they considered qualifications.  
21 I'm not sure they went through that process initially  
22 because that happened before I came on.



1 Q Did there come a time when the  
2 single-family team expanded or other firms were  
3 included?

4 A Yes.

5 Q Do you recall when that first occurred?

6 A I really don't, but it was sometime in the  
7 mid-'80s or early '80s. PaineWebber was named the  
8 lead manager, and Hutton was no longer included. So,  
9 yes, that happened.

10 Q Were there any specific events that caused  
11 the change in the lead manager that you are aware of?

12 A Yes. PaineWebber had a better idea. That  
13 was during a time of high interest rates, as you will  
14 recall back then, and PaineWebber came in with a  
15 program and with legal opinions that permitted bonds  
16 to be issued. Arkansas had a usury law problem  
17 during that time.

18 On the basis of that program structure,  
19 PaineWebber was hired as senior manager. The policy  
20 decision was made to include local underwriters as  
21 part of the local team, but PaineWebber took over the  
22 lead role at that point.

1 Q In addition to the change in lead, more  
2 local firms were included as co-underwriters?

3 A Yes.

4 Q With regard to that being a policy  
5 decision, where did that come from? Was that from  
6 the legislature, the Governor's office or both?

7 A It was from the ADFA board, or AHDA board.

8 Q Do you remember having any reaction to that  
9 with the inclusion of more Arkansas firms as  
10 co-underwriters at the time?

11 A Sure. At that time it was basically a  
12 three-handed account, a third, third and third split  
13 with Hutton and Stephens remaining. After that,  
14 PaineWebber was made senior manager, and then there  
15 were other local firms added. So, our percentage of  
16 the deal went from a third to something less than  
17 10.

18 Q With regard to the other Arkansas firms  
19 that came in as co-underwriters on the AHDA deals and  
20 ADFA deals later, did they have the same distribution  
21 networks that T.J. Raney had?

22 A Did they have the same distribution

1 networks?

2 Q Let me help you out. Were they as  
3 extensive or as complete or were there varying  
4 levels?

5 A I'm sure they would claim that they did. I  
6 don't know. They had salesmen and we had salesmen.

7 Q With the new policy to include more local  
8 firms, did that increase the competitive environment  
9 to become a co-underwriter on these offerings?

10 A I'm not sure I understand your question.

11 Q Initially you said there were three firms  
12 involved, at least in the single-family. With the  
13 advent of the policy to include more local firms in  
14 the co-underwritings, did that increase competition  
15 for your firm to be included in underwritings?

16 A I'm not sure I understand what you are  
17 saying. The account was formed; there were local  
18 firms in addition to PaineWebber. I don't understand  
19 how that can increase competition to be included  
20 because the account was set.

21 Q With regard to the account that firms were  
22 identified as members of the account, they didn't

---

1 have to compete to participate in the underwritings;  
2 is that right?

3 A They were included in the account. Of  
4 course, there was competition to sell securities when  
5 the bonds were offered.

6 Q Would they be part of the underwriting team  
7 automatically?

8 A Right.

9 Q How about with the multifamily, was that  
10 the same case?

11 A Once the account was established -- I'm not  
12 sure I understand what your point is.

13 Q I'm just trying to understand what the  
14 structure was for firms participating in the  
15 different offerings and underwritings and whether or  
16 not with regard to like putting forth proposals to  
17 the AHD or the ADFA board whether firms were already  
18 included in their offering and it was up to them to  
19 see how many they could sell, how many bonds they  
20 could sell or whether in order to be included in the  
21 underwriting, whether they had to be accepted with  
22 the proposal that they put forward to the board, how

1 that was set up.

2 A Yes. It is important to be able to  
3 demonstrate to the ADFA board that you were able to  
4 sell a lot of the bonds and support the offering.  
5 That was one of the things that was pointed out after  
6 the fact. I think there were only one or two, as I  
7 recall, multifamily deals done, and then we had a  
8 long period of time where there was a long period of  
9 time before there were any more multifamily deals  
10 done.

11 As I recall, there were only one or two  
12 multifamily financings. I think Hutton was lead, but  
13 I am just recalling that. I may be wrong.

14 Q I would like to show you a multipage  
15 document that has been produced to the committee  
16 which is 11 pages long, "Arkansas Development Finance  
17 Authority" on the top. Bond underwriters, bond  
18 counsel and special tax counsel, it says, and it  
19 lists a number of different bond issuances done by  
20 ADFA or AHDA.

21 The document lists different types of  
22 offerings as well as issue dates, original issue

---

20

1 amounts, underwriters, with the leads listed first  
2 and then authorities counsel and special tax  
3 counsel.

4 I show that to you and your counsel. Take  
5 a moment to review it. I will ask you to refresh  
6 your recollection as to the types of deals or numbers  
7 of deals that were occurring during that time  
8 period.

9 A Can I ask if this was furnished by ADFA?

10 Q I don't believe it was.

11 MR. FEUER: Put the Bates numbers in the  
12 record.

13 THE WITNESS: What would you like me to  
14 review?

15 BY MR. O'CALLAGHAN:

16 Q Generally review it with regard to the  
17 different types of offerings that were done. I'm  
18 specifically going to be asking you about a 1983  
19 through 1986 time period and I'm going to ask you  
20 specific questions about the different kinds of  
21 structures that existed with regard to granting  
22 underwriting contracts with regard to the different



1 types of offerings.

2 (Witness examined the document.)

3 BY MR. O'CALLAGHAN:

4 Q The first page of this document, the Bates  
5 have been cut off during the copying, it is DKS  
6 0273, and I believe it is DKS 027373 due to the  
7 series you can see later on where it becomes 27380.  
8 With regard to the first page of the document, it has  
9 a listing of single-family mortgage revenue bonds.  
10 There is a listing of 1978 A, 1980 A, 1979 A and  
11 1982 A.

12 The first question is, looking at this  
13 document, and I realize you didn't produce it, but is  
14 that consistent with your recollection as to the  
15 issuances that were done by AHDA that involved  
16 single-family mortgage revenue bonds and the  
17 single-family accounts that you referred to earlier?

18 MR. STRASSER: He already testified he  
19 wasn't there in '78. I don't think he can tell you  
20 anything about '78. You are asking him does he have  
21 a present recollection of whether these were the  
22 single-family mortgage revenue bonds in 1979, '80 and

1 '82? Is that your question?

2 MR. O'CALLAGHAN: I can ask that question,  
3 yes. That would be fine.

4 THE WITNESS: I know that we were involved  
5 in single-family programs for AHDA during those  
6 years. I don't know who produced this. I don't know  
7 if the amounts are accurate. I don't know if the  
8 dates are accurate. I can just say that we were  
9 involved in the single-family program during those  
10 years.

11 BY MR. O'CALLAGHAN:

12 Q Looking at this document, and I'm not  
13 asking you to verify the accuracy of it, but there is  
14 a sixth issue listed on the first page, 1983 A. It  
15 lists an underwriting group which includes Blyth  
16 Eastman Paine Webber, George K. Campbell & Company,  
17 Collins, Locke & Lasater, T.J. Raney & Sons,  
18 Incorporated.

19 Does looking at that help refresh your  
20 recollection as to whether 1983 was the first year  
21 that the underwriting group was expanded?

22 A It could have been. I have already



1 testified that E.F. Hutton was kind of removed and  
2 PaineWebber, Blyth Eastman was inserted as  
3 single-family.

4 Q With regard to the first single-family deal  
5 opened up to other underwriting firms for  
6 underwriting, were the co-underwriting fees shared  
7 equally on that offering, if you recall?

8 A I don't recall.

9 Q Generally were they shared equally or could  
10 one co-underwriter get more than the other?

11 A I don't know.

12 Q For prospectuses on bond deals for the  
13 offering, the front page of the offerings, do they  
14 generally have the listing of the different  
15 underwriters that are participating in the deal?

16 A Right.

17 Q Were those names put in any particular  
18 order on the front page of the prospectus?

19 A Yes.

20 Q What generally is the order that they are  
21 put in?

22 A Well, the senior manager is usually shown

---

1 prominently and the co-managers are shown probably  
2 with a smaller typeface in a different position.

3 Q With regard to the co-managers, is there  
4 any specific positioning that is relevant to how they  
5 appear on the front page?

6 A You see it done different ways. It would  
7 be a matter of professional pride, just because this  
8 is going out to your customers and you would want  
9 your name shown prominently and in the right  
10 position.

11 But in some issues, they go with  
12 alphabetical order and on other issues they use  
13 different methods. If your question is is that  
14 important, the answer would be yes, that is  
15 important.

16 Q Is that ever reflective of the amount of  
17 the management fee each underwriter is receiving?

18 A It is usually reflective of role in the  
19 financing.

20 Q As to how much of a role each underwriting  
21 firm is involved in with regard to setting up the  
22 structure of the financing?

1 A Or just involvement, yes. I think I can  
2 say here that George K. Baum appears in the account  
3 in 1983. They had a relationship with PaineWebber.  
4 I am sure through George K. Baum's office in Little  
5 Rock, PaineWebber got an audience and was able to  
6 present its ideas.

7 I think that is why they were included in  
8 the account, was that they had some important  
9 relationships that PaineWebber was able to utilize to  
10 present their program. I really don't recall what  
11 benefit accrued to George K. Baum by reason of that.  
12 They might have had a higher position in this; I  
13 don't know.

14 Q With regard to the special relationship  
15 that George K. Baum may have had, what does that  
16 refer to? You said one of the reasons why  
17 PaineWebber was able to be introduced was going  
18 through you thought maybe George K. Baum, and I think  
19 you mentioned a special relationship George K. Baum  
20 had. With that be with anyone --

21 MR. STRASSER: I don't think he used the  
22 word "special relationship."

1 MR. O'CALLAGHAN: I wrote it down. You can  
2 read it back or whatever.

3 BY MR. O'CALLAGHAN:

4 Q Are you aware of any special relationship  
5 George K. Baum had with anyone on the ADFA board or  
6 anyone involved on ADFA that would be to their  
7 benefit in getting PaineWebber in?

8 A It was obviously to their benefit. Their  
9 local banker, I'm sure, wanted to get into the  
10 account, and he had relationships with people at  
11 PaineWebber. That is just business.

12 Q When you said "he had relationships," who  
13 are you referring to?

14 A Board members. He had been coming to board  
15 meetings.

16 Q When you say "he" --

17 A It is a specific banker. His name is Duby  
18 Sullivan.

19 Q The question was, were you aware of any  
20 extraordinary relationships he had with board members  
21 that set them apart in the local banking community.

22 A No.

1 Q Other than what you have already described  
2 as AHD's and ADFA's desire to have underwriter firms  
3 who could effectively sell the bonds through their  
4 issuances, were there any other specific criteria  
5 that you are aware of that they used in hiring  
6 underwriters, both lead and co-underwriters?

7 A I think it was important to them to have  
8 local distribution of securities. I think that they  
9 were interested in including local firms. We came to  
10 the meetings. We supported ADFA in their programs.  
11 That was a policy decision that made sense.

12 Q With regard to the local firms that were  
13 around at the time, 1983 through 1986, if there was a  
14 single-family housing deal and a multifamily housing  
15 deal, either one being done by ADFA, were there any  
16 particular firms that were excluded from  
17 participating in the underwritings that you know  
18 about?

19 A Not that I know of.

20 Q Was it difficult for local firms to  
21 participate?

22 A To be included? I'm sure there were some

---

1 local firms that would like to be included that  
2 weren't.

3 Q Do you know why those firms weren't  
4 included?

5 A No, I don't.

6 Q Have you ever heard why they weren't  
7 included?

8 A No, I haven't.

9 Q Do these firms have equal distribution  
10 networks that were on a similar level or part of the  
11 firms that were participating?

12 A No.

13 Q Were they inferior or superior?

14 A That would be hard for me to contrast.

15 Q Did anyone at T.J. Raney & Sons actively  
16 lobby to receive underwriting contracts with any of  
17 the ADFA board members, again, during the course of  
18 1983 through 1986?

19 A Would you say that again.

20 Q Was there anyone at T.J. Raney & Sons  
21 involved in lobbying ADFA board members in order to  
22 help receive underwriting contracts?



1 A I guess you need to define "lobby."

2 Q Did they have meetings with board members  
3 to try to sell the company to the board members and  
4 impress upon them that it would be to their advantage  
5 to use the company in doing underwritings?

6 A Well, as you can see, we are listed on a  
7 lot of these deals. We went to all the board  
8 meetings. We knew the members of the board  
9 personally. So, we had relationships, and we were  
10 actively promoting our involvement with ADFA, sure.

11 Q Did you personally contact board members  
12 with regard to obtaining business for T.J. Raney?

13 A From time to time, yes.

14 Q What would be the context of those  
15 contacts?

16 A Excuse me?

17 Q What would be the nature or context of  
18 those contacts? How would it normally be done?

19 A Usually it was at board meetings or closing  
20 dinners, that sort of thing.

21 Q Would you ever visit with any of the board  
22 members at their home or go out to dinner with them,

---

1 anything like that?

2 A Not at their home. You know, if they were  
3 in town -- I wouldn't call it extraordinary efforts,  
4 it was just what I would call just business  
5 development.

6 Q Did anyone else at the company engage in  
7 that type of selling to the board members, meeting  
8 them at their homes, going out to dinner with them?

9 A I think during that time I was probably the  
10 principal one.

11 Q Did you or anyone at T.J. Raney & Company  
12 have any contacts within the Governor's office with  
13 regard to obtaining bond underwriting contacts?

14 A We have had several different governors  
15 during that time. I can remember one public meeting  
16 with Governor White, the Republican governor at the  
17 time, on the issue of local issuers of single-family  
18 bonds or state issuers. I do remember that.

19 Q This might help narrow it down  
20 specifically. During 1983 to 1986, was the time  
21 period -- that's when Governor Clinton was in  
22 office -- did any members of his staff ever meet with



1 the Governor with regard to securing business for  
2 T.J. Raney?

3 A Not that I can recall.

4 Q That question was meant as to anyone at the  
5 company that you know of, not just yourself.

6 A Not that I know of.

7 Q Do you know if any of the other  
8 underwriting houses in town were involved in  
9 contacting members of the governor's staff or the  
10 Governor with regard to securing underwriting  
11 contracts?

12 A Not that I know of.

13 Q During 1983 through 1986, were you familiar  
14 with anyone who worked in the Governor's office?

15 A Was I familiar with anyone who worked in  
16 the Governor's office? I read about them in the  
17 paper.

18 Q Did you have any personal relationships?

19 MR. STRASSER: Can you explain how this is  
20 within the scope of your permissible inquiry?

21 MR. O'CALLAGHAN: This is again with regard  
22 to contacts with members of the Governor's office and

---

32

1 also in relation to his employment by T.J. Raney and  
2 there also involvement with participating in bond  
3 underwriting for the Lasater Company related to  
4 issuances done by the Arkansas Development Finance  
5 Authority.

6 MR. STRASSER: He told you a minute ago  
7 that he nor anyone, to his knowledge, at T.J. Raney  
8 had any contacts at all with the Governor or his  
9 staff with regard to underwriting contracts.

10 I fail to see the relevance of whether he  
11 was familiar with anyone in the Governor's office.  
12 It does not bear under the topic you just described  
13 since he has just told you he didn't have any  
14 meetings to get underwriting business.

15 MR. O'CALLAGHAN: The reason I'm asking the  
16 question is because he said he didn't recall any  
17 meetings. I'm trying to flesh out his recollection  
18 to ask if he had any acquaintance with people that  
19 would help refresh his recollection as to any  
20 meetings that may have occurred that he doesn't  
21 recall.

22 MR. STRASSER: I will be surprised if a

1 question about whether he is familiar with anyone is  
2 going to refresh his recollection about anything, but  
3 I will let him answer that one. I don't expect  
4 follow-up questions on this.

5 THE WITNESS: I can't recall anything.

6 MR. O'CALLAGHAN:

7 Q Did you have any interaction with anyone at  
8 Collins, Locke & Lasater or Lasater & Company between  
9 January 1983 and December 1986?

10 A Yes.

11 Q Who did you have interaction with at the  
12 company?

13 A Michael Drake.

14 Q Anyone else?

15 A No.

16 Q When did you first meet Mr. Drake?

17 A When he was employed by Stephens, Inc.

18 Q What was the first contact you had with him  
19 when he was working at Collins, Locke & Lasater?

20 A I can't recall specifically.

21 Q Do you recall whether it was in relation to  
22 a bond offering?

1 A Well, if I can't recall specifically, I  
2 cannot tell you what it was about.

3 Q Do you have a general recollection of what  
4 the nature of the contact was or how it occurred?

5 A The first contact, I don't know.

6 MR. STRASSER: He just told you he didn't  
7 recall it.

8 MR. O'CALLAGHAN: I asked him generally.

9 MR. STRASSER: He told you twice he didn't  
10 recall. You could ask him generally, could ask him  
11 privately or standing up and he told you twice he  
12 didn't recall. Maybe we can move on and find out  
13 some facts that would be relevant to your inquiry.

14 MR. O'CALLAGHAN: That's what I'm  
15 attempting to do. Thank you for your assistance.

16 BY MR. O'CALLAGHAN:

17 Q During the course of 1983 through 1986,  
18 what was the nature of your interaction with  
19 Mr. Drake?

20 A The only interaction I can recall -- are we  
21 talking about initial interaction or what? He used  
22 to go to the ADFA board meetings, and I saw him

1 there. That was it.

2 Q Other than meeting him at ADFA board  
3 meetings, did you do any work with him with regard to  
4 any underwritings that ADFA or AHDA did?

5 A Yes.

6 Q What type of work did you do with him in  
7 connection with those?

8 A Michael was involved in the state police  
9 financing.

10 Q Correct me if I'm wrong, but was that an  
11 ADFA bond offering or AHD bond offering?

12 A No.

13 Q Just specifically with regard to your  
14 recollection with regard to involvement you had with  
15 him regarding ADFA and AHDA bond offerings, did you  
16 have any contact with him with regard to being  
17 involved in underwriting groups that did those  
18 underwritings?

19 A No.

20 Q What type of interaction would you have  
21 with him at the ADFA board meetings that you  
22 described?

1 A Just two guys attending the same meeting.

2 Q T.J. Raney & Sons was involved in an  
3 underwriting group that did ADFA bond underwritings.  
4 What was the level of interaction between the  
5 different co-underwriters generally in those  
6 offerings?

7 A Not much.

8 Q Would it be varying levels depending on the  
9 degree of involvement that each firm had in  
10 structuring the financing and putting the deal  
11 together?

12 A Are you saying would there be more  
13 involvement if they were more involved?

14 Q Correct.

15 A Yes.

16 Q Were you ever involved in any underwriting  
17 groups where both Lasater & Company and T.J. Raney  
18 were significantly involved in putting together the  
19 structuring for any of the deals?

20 A In the -- at ADFA? If you are asking about  
21 ADFA --

22 Q I am. Did T.J. Raney do any of the lead

1 underwriting for any of the ADFA deals?

2 A I think our first lead was a multifamily  
3 deal that was probably in the mid-'80s, a multifamily  
4 refinancing. We have since done several.

5 Q Do you recall when that occurred?

6 A I really don't. If your list is accurate,  
7 it should be reflected there in the multifamily  
8 section.

9 Q Do you recall whether it was before or  
10 after 1986?

11 A I don't recall.

12 Q Do you recall whether that underwriting  
13 included Lasater & Company as part of the  
14 underwriting group?

15 A I don't.

16 Q In any of the underwriting deals that you  
17 were involved with with ADFA and AHDA, to your  
18 recollect, did Lasater & Company ever have a  
19 significant role in the structuring of any of those  
20 deals?

21 A Not that I can recall.

22 Q Would you be surprised that they would have

1 a significant role in structuring the deal, or would  
2 it be possible? To the best of your estimation.

3 A Would I be surprised now to learn that they  
4 structured a deal in 1983? Is that your question?

5 Q The question is, during 1983 through  
6 1986 -- let me rephrase it. Would you have expected  
7 them to be involved in a significant way in the  
8 structuring of any of the deals?

9 A No.

10 Q Would you be surprised if they were  
11 involved in a significant role in structuring any of  
12 the underwriting deals?

13 A I would be surprised if they had been.

14 Q Why is that?

15 A I think they had a very limited public  
16 finance staff. I think it was just Michael Drake.

17 Q Was it your understanding that the most  
18 they largely brought was a distribution aspect to the  
19 deals?

20 A Would you repeat that.

21 Q Sure. It probably wasn't phrased very  
22 well.



1 The question was whether it was your  
2 understanding that what Lasater & Company brings to  
3 an underwriting group was their ability to distribute  
4 the bonds versus their ability to help structure the  
5 financing?

6 A I think that would be a correct statement.

7 Q Did you ever become aware of a time when  
8 Lasater & Company was excluded from being part of the  
9 underwriting group for ADFA or AHDA deals?

10 A I can't recall that.

11 Q Do you know or have you ever learned that  
12 anyone from Lasater & Company provided money or  
13 compensation to anyone in the Governor's office in  
14 order to be included in underwriting contracts?

15 A I don't know that.

16 Q Have you ever heard that?

17 A No.

18 Q Have you ever heard that anyone from  
19 Lasater & Company ever attempted to make payments to  
20 anyone in the Governor's office with regard to  
21 participating in underwriting deals?

22 A No.

1 Q Have you ever heard that any one of the  
2 underwriters that participated in ADFA underwriting  
3 contracts attempted to offer money or compensation to  
4 anyone in the Governor's office in order to  
5 participate in those underwritings?

6 A No.

7 Q Have you ever heard of any money laundering  
8 that was associated with any AHDA or ADFA bond  
9 offerings?

10 A No.

11 Q Did any of the ADFA staff members maintain  
12 accounts at Lasater & Company?

13 A I have no idea.

14 Q Did any of the ADFA board members maintain  
15 security accounts with Lasater & Company?

16 A I have no way of knowing. I don't know.

17 Q Did the Governor and Mrs. Clinton maintain  
18 securities accounts at Lasater & Company?

19 A I have no knowledge of that.

20 Q Did Madison Guaranty Savings & Loan  
21 maintain a securities account at Lasater & Company?

22 A I don't know.

1 Q Did Lasater & Company maintain any banking  
2 accounting at Madison Guaranty Savings & Loan?

3 A I don't know.

4 Q During the period January 1983 through  
5 December 1986, did T.J. Raney & Company or anyone who  
6 worked for the firm make any recommendations to the  
7 Governor's office with respect to nominations for the  
8 ADFA board?

9 A Not that I recall.

10 Q Are you aware of whether any of the other  
11 underwriting firms that participated in the ADFA  
12 deals gave recommendations for nominations to the  
13 ADFA board to the Governor's office?

14 A I have no way of knowing.

15 Q Would that surprise you, to hear that --  
16 would you be surprised if other firms were making  
17 recommendations for nominations to the ADFA board to  
18 the Governor's office?

19 A Would I be surprised? No.

20 MR. FEUER: Why not?

21 THE WITNESS: There are various ways to  
22 compete in business, and a lot of people compete on

1 relationships. An important board like ADFA, having  
2 a friend on the board would be an important  
3 relationship.

4 So it wouldn't surprise me if other firms  
5 did that. We did not do that, and I do not know if  
6 anybody else did, but it wouldn't surprise me.

7 BY MR. O'CALLAGHAN:

8 Q Was there a specific reason why you all  
9 didn't do that?

10 A We didn't think we would be very good at  
11 it. All we wanted was a level playing field, and we  
12 wanted to rise or fall on our merits.

13 Q From your experience in participating in  
14 the ADFA bond underwritings that occurred in 1983  
15 through 1986, were you generally of the impression  
16 that underwriting contracts were based on terms of  
17 merit?

18 A Generally, yes.

19 Q Were there specific instances where you  
20 felt that they weren't granted on terms of merit?

21 A I couldn't be specific or recall any.

22 Q Do you have any recollection whether that

1 ever happened?

2 A What ever happened?

3 Q An underwriting contract was granted for  
4 reasons other than the firm's merit and ability to  
5 contribute to the underwriting.

6 A Specifically, no.

7 Q I know this sounds like a degree  
8 questioning, but the question was whether you  
9 recalled if that ever happened versus the specific  
10 recollection of one that did happen, whether you have  
11 any recollection of whether that ever happened.

12 A "It" being what?

13 Q A contract being awarded for reasons other  
14 than merit.

15 A I don't have a specific or a general  
16 recollection.

17 Q Are you aware of any complaints that were  
18 raised with the ADFA board or the Governor's office  
19 with regard to contracts being offered for reasons  
20 other than the company's merit and its ability to  
21 contribute to an offering?

22 A Was I aware of complaints?

1 Q Uh-huh.

2 A Would you repeat that. Was I aware of  
3 complaints about what?

4 Q About whether or not contracts were given  
5 for reasons other than the firm's ability to  
6 contribute to the offering for reasons other than  
7 merit.

8 A I can't recall anything specific.

9 Q Again, do you have any general recollection  
10 of that ever happening?

11 A What ever happening?

12 Q Whether complaints were raised with regard  
13 to the granting of contracts for reasons other than  
14 merit.

15 A Granting of contracts?

16 Q Underwriting contracts.

17 A I don't have any.

18 MR. O'CALLAGHAN: Let's go off the record.  
19 (Recess.)

20 BY MR. O'CALLAGHAN:

21 Q I would like to show you a document  
22 provided to the committee, a two-page document. The



1 first page is on Collins, Locke & Lasater stationery  
 2 dated September 8, 1983. It says "Re: Arkansas  
 3 Housing Development Agency multifamily mortgage  
 4 revenue bonds (FHA mortgage loans) series 1983."

5 Then it reads "To the person on the  
 6 attached distribution list" and the second page has a  
 7 distribution list of a number of different people,  
 8 different subject headings, bond counsel,  
 9 underwriters counsel and for the underwriters. The  
 10 letter is signed Michael J. Drake.

11 Take a moment to review that.

12 MR. FEUER: Who produced this document?

13 MR. O'CALLAGHAN: That document, I believe,  
 14 was produced by Mr. Lasater's attorneys.

15 (Witness examined the document.)

16 THE WITNESS: Okay.

17 BY MR. O'CALLAGHAN:

18 Q Have you seen this document before?

19 A No, I don't recall it.

20 Q You haven't seen it or you don't recall?

21 A I don't recall.

22 Q Just for the record, I will read the text

1 of it quickly. It is not that long.

2 "As a result of our efforts to develop  
 3 credit enhancement techniques for the referenced  
 4 financing, I have taken the liberty of arranging a  
 5 conference with Mr. Raymond J. McClendeon, vice  
 6 president for community development, Federal National  
 7 Mortgage Association, FNMA, to discuss participation  
 8 in the AHDA's multifamily program. The meeting  
 9 scheduled for 10:00 a.m. Friday, September 16, 1983  
 10 has been arranged to determine a structure which will  
 11 result in the following: 1, AAA bond rating; 2, net  
 12 present value savings to the agency over conventional  
 13 FHA insured program; 3, substantial reduction in  
 14 developer/owner mortgage rate.

15 "Those persons who desire to attend this  
 16 meeting or send a representative are requested to  
 17 notify the undersigned not later than 10:00 a.m.  
 18 Wednesday, September 14, 1983."

19 Did you attend any meetings set up by  
 20 Mr. Drake in September 1983?

21 A I can't recall. I don't think I did.

22 Q Just for clarity of the record, the second



1 page of the document, which has a distribution list,  
2 under the underwriters, T.J. Raney & Sons is listed  
3 with William Faulkner, Bob Snider, 3600 Cantrell,  
4 C-a-n-t-r-e-l-l, Little Rock, Arkansas. There is a  
5 notation to the right of your name. It looks like it  
6 is an n-o.

7 Does that help refresh your recollection  
8 whether you informed somebody you were not going?

9 A It looks like I didn't go. I can't recall  
10 going to the meeting. I can't recall the memo.

11 Q Would the type of meeting that is  
12 referenced in the document, would this have been a  
13 normal meeting that would be normally set up by one  
14 of the co-underwriters in the bond offering?

15 A No.

16 Q Why is that?

17 A The senior manager usually determines the  
18 structure and determines what steps to take, directs  
19 the financing.

20 Q Do you recall Mr. Drake ever making efforts  
21 like this to try to help determine the structure of  
22 deals or get involved in that process?

1 MR. STRASSER: This is a meeting with a  
2 federal official, not a state official. I think the  
3 premise of your question is mistaken.

4 MR. O'CALLAGHAN: It is just Mr. Drake's  
5 involvement in helping set up not only offerings but  
6 also the way the agency dealt with offerings and  
7 different structures, I believe.

8 MR. STRASSER: This is a meeting with  
9 somebody at Fannie Mae. This is not even a meeting  
10 with somebody in a state agency in Arkansas, as near  
11 as I can tell, again, judging by the face of the  
12 document.

13 MR. O'CALLAGHAN: It discusses people from  
14 AHDA participating in the meeting. The distribution  
15 list, there are a number of people listed, Vivian  
16 Pugh, Bernard Henry, Wooten Epes, and it talks about  
17 the discussion of Fannie Mae's participation in the  
18 AHDA's multifamily program.

19 To that extent, it is talking about at  
20 least the function of the agency and the way they are  
21 underwriting the bonds and the type of financing they  
22 are going to be doing.

1 MR. STRASSER: But he didn't go to the  
2 meeting.

3 MR. O'CALLAGHAN: I'm asking in general  
4 whether Mr. Drake had been involved in any similar  
5 efforts to get involved in structuring financing with  
6 the agency.

7 MR. STRASSER: Right. You can ask him  
8 anything you want about Mr. Drake's structuring  
9 financing with the agency. This letter is not a  
10 representation of that. This is a meeting with -- I  
11 think it is misleading to question Mr. Snider as  
12 though that had anything to do with this letter.

13 MR. O'CALLAGHAN: I never intended to  
14 mislead in any way or imply -- that's why I pointed  
15 out the notation "no" next to his name, to give him a  
16 chance to say whether or not he attended the  
17 meeting.

18 MR. STRASSER: He already told you that.

19 MR. O'CALLAGHAN: I want to make sure there  
20 is no attempt to mislead anybody here.

21 BY MR. O'CALLAGHAN:

22 Q I asked you if this was a typical activity

---

1 involving a co-underwriter involved in different  
2 deals.

3 A I would say no, that is not a typical  
4 activity.

5 Q Why is it not?

6 A Because the senior manager, in this case I  
7 believe Merrill Lynch, on a multifamily account would  
8 have called that meeting. I see he was put on the  
9 distribution list. Dud Levi and Merrill Houcek,  
10 those were the Merrill guys involved.

11 Q As far as meetings of this nature, are you  
12 aware of --

13 MR. STRASSER: My concern is the vagueness  
14 of the question. Meetings about the structuring of  
15 the deals with AHDA? Is that what you mean by "such  
16 meetings"?

17 MR. O'CALLAGHAN: Correct.

18 THE WITNESS: This doesn't surprise me  
19 Michael would have a meeting like this and get people  
20 to attend as a way to try to play a larger role in  
21 structuring financings. This doesn't surprise me.  
22 That we didn't attend also doesn't surprise me.

1 BY MR. O'CALLAGHAN:

2 Q Why is that?

3 A Well, I don't think Michael had a lot of  
4 credibility with us when it came to structuring.

5 Q Why was that, that he didn't have a lot of  
6 credibility?

7 A Because I don't know of any deals that he  
8 ever senior managed. Maybe he did, just beyond my  
9 awareness.

10 Q During the period 1983 through 1986, did  
11 Collins, Locke & Lasater, which later became Lasater  
12 & Company, did they have the capability to be senior  
13 managers on any of the deals that you are aware of  
14 with AHDA?

15 A Not that I'm aware of.

16 Q During the period 1983, again, through  
17 1986, did you know Dan Lasater?

18 A During that period did I know Dan Lasater?  
19 I knew of Dan Lasater because I read about him in the  
20 newspaper.

21 Q Other than reading about him in the  
22 newspaper, have you had any contacts or communication

---

1 with him?

2 A I only met him one time.

3 Q And when was that?

4 A That was in regard to the state police  
5 financing.

6 Q Do you remember when that occurred?

7 A I don't recall specifically when that  
8 occurred.

9 Q With regard to that, generally are you  
10 familiar with the bond underwriting that was  
11 undertaken in 1985 to finance the purchase of a new  
12 police radio system for the state of Arkansas?

13 A Yes.

14 Q How did you first become familiar with  
15 that?

16 MR. STRASSER: Please explain how this is  
17 relevant to the scope of the Committee's  
18 investigation.

19 MR. O'CALLAGHAN: Sure. While the specific  
20 language of the Resolution addresses the bond  
21 underwriting contract between the Arkansas Finance  
22 Development Authority and Lasater & Company, there is

1 an understanding, and also within the scope of the  
2 Resolution, it is the bond underwriting contract  
3 financing that was involved with the Arkansas police  
4 radio communication system.

5 It was a state bond offering which also  
6 involved Lasater & Company, which is a part of the  
7 inquiry that the Special Committee is involved in.

8 MR. STRASSER: Where is that understanding  
9 reflected in the Resolution?

10 MR. O'CALLAGHAN: It is not reflected in  
11 the Resolution. It is our understanding that has  
12 been agreed to with the Minority.

13 MR. FEUER: That is my understanding.

14 MR. STRASSER: Is this written down  
15 somewhere, this understanding between the Majority  
16 and the Minority?

17 MR. O'CALLAGHAN: It currently is not.

18 MR. STRASSER: This is an oral  
19 understanding that, I take it, expands the scope of  
20 the Resolution?

21 MR. O'CALLAGHAN: That includes the  
22 investigation into the bond underwriting contracts

1 involving the state police radio system in 1985.

2 MR. STRASSER: You agree with me it is not  
3 in the Resolution now, and you just told me that it  
4 is not written down anywhere. I take it this is an  
5 agreement reached between the Majority and Minority  
6 that expands the scope of the Committee's  
7 investigation?

8 MR. O'CALLAGHAN: To the extent that when  
9 the Resolution was initially written, it was intended  
10 to include an inquiry into this matter as part of the  
11 underwriting contracts.

12 MR. STRASSER: It was intended to include  
13 that? It is just not written down anywhere, although  
14 it was intended to be included.

15 MR. O'CALLAGHAN: The state police radio  
16 network financing is not specifically identified in  
17 the Resolution.

18 MR. STRASSER: I see. But you are telling  
19 me it was intended to be included all along; it just  
20 wasn't? Is that what you are saying?

21 MR. O'CALLAGHAN: It is not specifically  
22 listed, yes.



1 MR. STRASSER: I know what it says. We all  
2 can read it.

3 MR. O'CALLAGHAN: I didn't write the  
4 Resolution. I can't really comment as to what the  
5 framers' intent was.

6 MR. STRASSER: So you don't know whether it  
7 was intended to be included?

8 MR. O'CALLAGHAN: Let's go off the record  
9 for a second.

10 MR. STRASSER: I don't see any reason to go  
11 off the record on this.

12 MR. O'CALLAGHAN: What is your  
13 understanding?

14 MR. FEUER: My understanding is as  
15 Mr. O'Callaghan has described, that it was intended  
16 to be within the scope of the committee's inquiry at  
17 the time that Senate Resolution 120 was drafted.

18 However, I believe Mr. Strasser to be  
19 correct that the text of the Resolution does not  
20 encompass this matter. I would suggest, if it is  
21 Mr. Strasser's wish at this point, that we seek  
22 guidance from the Chairman and ranking member of the

1 committee.

2 MR. STRASSER: No, I haven't asked that. I  
3 want to understand what the basis of the question is,  
4 since obviously it is not in the Resolution. I  
5 gather the answer to me is that the Majority and  
6 Minority have agreed that this will be within the  
7 scope; that's your answer about what the basis for  
8 these questions is?

9 MR. O'CALLAGHAN: Correct.

10 MR. STRASSER: Okay. I will not force you  
11 to seek clarification of this from the Chairman of  
12 the Committee, but I think you should regard all of  
13 Mr. Snider's answers on this as taken subject to my  
14 objection that it is beyond the scope of the  
15 Resolution.

16 But rather than force Mr. Snider to come  
17 back here and answer questions a second time -- he  
18 already has been inconvenienced with this trip -- I  
19 will allow you to proceed with the questions,  
20 understand that everything he says about the police  
21 radio system financing is taken subject to my  
22 objection.

1           If you would like, I will object before  
2 every question, but that will be very tedious. If  
3 you are willing to agree that everything that he says  
4 is taken subject to that objection, I won't object on  
5 this subject matter before every question. If you  
6 are not willing to agree to that, I will object  
7 before every single question.

8           MR. O'CALLAGHAN: I am actually -- I think  
9 I would prefer to bring your objection to the  
10 Chairman and ranking member now rather than --  
11 because they are here and they are in the Senate  
12 right now and actually having hearings.

13           MR. STRASSER: I'm still going to object,  
14 because I can read the Resolution. I understand the  
15 Resolution provides that the Chairman resolves it.  
16 But there may be -- I don't know whether there will  
17 be any kind of further legal proceedings beyond  
18 that.

19           I am prepared to have Mr. Snider testify  
20 right now. If you want to go up to the Chairman and  
21 talk about it, I am happy to go up there with you. I  
22 will tell him what I told you; I think it is beyond

1 the scope of the Resolution. With your agreement  
2 that his testimony is taken subject to that  
3 objection, I will allow him to proceed.

4           MR. FEUER: Why don't we proceed subject to  
5 Mr. Strasser's caveat.

6           MR. O'CALLAGHAN: I can agree to that.  
7 That's fine.

8           MR. STRASSER: Okay. Let's go.

9           BY MR. O'CALLAGHAN:

10          Q   Before our most recent exchange, I believe  
11 I asked you about your familiarity with the financing  
12 for the police radio system for the state of Arkansas  
13 that occurred in 1985.

14           I guess my first question is, how did you  
15 first come to learn that the state police were  
16 looking to finance a new communications system?

17          A   One of my bankers had worked on a jail  
18 financing down in Texarkana, and he advised me that  
19 he was aware -- this would have been probably in the  
20 fall of '84 -- that the state was getting ready to  
21 upgrade its radio communication system for the state  
22 police.

1 Q How did he become aware that the state was  
2 going to upgrade the communication system?

3 A I think in talking to people at the state  
4 police.

5 Q Who did he speak with at the state police?

6 A I have no idea.

7 Q Did he speak with anyone in the Governor's  
8 office?

9 A Maybe. I don't know.

10 Q How was this presented to you?

11 A He was in the next office. I can't recall  
12 any specific communication. It was just, as I think  
13 back to it as to how I first became aware of it, I  
14 think it was from him.

15 Q Did he inform you about it in the context  
16 of doing financing for the new system or was it just  
17 a general point of interest?

18 A I think he communicated it to me as a need  
19 that could possibly be financed through a bond  
20 issue. He was doing his job.

21 Q Did he tell you how much they were looking  
22 to spend on the system or any specifics?

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1 A No.

2 Q Did you respond that you thought it would  
3 be something that could be financed by a bond issue?

4 A I don't recall my response.

5 Q After he told you about the possibility of  
6 the state police upgrading the communication system  
7 and the fact that it might be something that could be  
8 financed by a bond issue, did you talk to anyone else  
9 about this possibility?

10 A I think just internally we discussed it  
11 among our staff and probably on a couple of  
12 occasions. We are always looking for situations that  
13 could involve bond financing and try to have some  
14 sort of strategy to get involved. I think our  
15 discussions at that point were internal.

16 Q Who would have been involved in those  
17 conversations?

18 A Frank Surguine, now deceased, Paul Young  
19 and myself.

20 Q What was Mr. Surguine's position at the  
21 time?

22 A He was a public finance investment banker.

1 Q How about Mr. Young?  
2 A He is a public finance investment banker  
3 also.  
4 Q Did they have titles other than that?  
5 A At that time?  
6 Q Correct.  
7 A No. You mean officer titles like vice  
8 president?  
9 Q Yes.  
10 A I think Paul was a vice president and Frank  
11 was probably an associate.  
12 Q Did they work for you?  
13 A Yes.  
14 Q What was the name of the gentleman who  
15 initially told you about the possibility of the  
16 upgrading of the state police communication system?  
17 A My staff guy? Frank Surguine.  
18 Q So Frank was the person who first  
19 approached you?  
20 A Well, he was on my staff. He heard about  
21 it and he told me about it.  
22 Q Frank was the one that worked on the jail

1 financing in Texarkana?  
2 A Correct.  
3 Q When he first told you about the possible  
4 upgraded communication system by the state police,  
5 did he mention whether or not the state police had  
6 considered doing a bond financing in order to put the  
7 new system in place?  
8 A I can't recall.  
9 Q Up until the fall of 1984, do you know  
10 whether or not the state police had been involved in  
11 any financing through the use of bond issuances?  
12 A Not that I know of.  
13 Q After Mr. Surguine first told you about the  
14 possibility that the state police were going to  
15 upgrade the communication system and mentioned the  
16 possibility that this could be done through the  
17 financing through a bond issue, was there ever a  
18 meeting where you first took substantive steps to put  
19 together a structure for financing the purchase of  
20 the communication system through a bond issue?  
21 A I missed your question. Was there a  
22 meeting to discuss steps?



1 Q The first steps you took, whether there was  
2 a meeting where you took first steps to start the  
3 structuring --

4 A I can't recall any meeting that we had.  
5 During the course of the year we may close 50 to 100  
6 deals. There are always situations that develop. I  
7 can't recall a specific meeting that we sat down and  
8 determined that.

9 Q Did you ever talk to anyone to put together  
10 a structuring for the police communications?

11 A I asked Paul Young to find out what he  
12 could about it.

13 Q Was that in the fall of 1984?

14 A Uh-huh.

15 Q Did he do that?

16 A Uh-huh, yes.

17 Q How did he go about finding out about  
18 putting together a structure?

19 A I think his first call was to David Mosely  
20 at the state police department, who was sort of the  
21 point man. He was directed to Sam Bratton, who was  
22 on the Governor's staff, who was in charge of sort of

1 the effort from the Governor. This was a state  
2 agency and it would appropriately be coordinated by  
3 someone on the Governor's staff.

4 So, Paul had a couple conversations with  
5 David Mosely, and then he and I together met with Sam  
6 Bratton to just sort of find out what was going on.  
7 I think that meeting was in something like November.

8 Q Of '84?

9 A Uh-huh.

10 Q You, Mr. Young and Mr. Bratton were at the  
11 meeting. Was anyone else there?

12 A I'm sorry?

13 Q You, Mr. Young and Mr. Bratton were at the  
14 meeting in November '84?

15 A Yes.

16 Q Was anyone else in attendance?

17 A No. It was a very brief meeting. It was a  
18 very brief meeting.

19 Q What was the substance of the discussions?

20 A Just to find out what was going on, where  
21 they were, what they wanted to do. It was  
22 information-gathering.

1 Q What did he tell you?

2 A Just that there was a project, they wanted  
3 to do a financing, they wanted to determine how best  
4 to finance it. There was some discussion as to  
5 whether to finance it with revenue bonds or some sort  
6 of a lease deal.

7 So I think part of the discussion was  
8 whether authorizing legislation was needed to permit  
9 the state to enter this kind of indebtedness. It was  
10 pretty much in its infancy at the discussion stage at  
11 that point.

12 Q How did the issue of authorizing  
13 legislation come up?

14 A Well, I think they asked us for input, and  
15 I'm sure they asked others for input as well. I  
16 think our response at the time -- it is my  
17 recollection that our response at the time was that  
18 if they went the bond route, that probably no  
19 authorizing legislation would be required, but if  
20 they went to some sort of a leased financing subject  
21 to annual appropriation, that there was the  
22 possibility that legislation wouldn't be needed, but

1 really that was their call.

2 I think ultimately they concluded that  
3 authorizing legislation would be required if they  
4 went the shorter-term financing through certificates  
5 of participation.

6 Q Did you offer an opinion at the time or did  
7 Mr. Young offer an opinion at the time as to what  
8 would be a preferable way to finance it?

9 A I think we just submitted some  
10 alternatives; we could do it this way or this way, if  
11 you do it the bond way, this is the downside, this is  
12 the upside if you do it the lease way. Sort of an  
13 analysis of a structure.

14 Q Did you make the representation that you  
15 could service the financing with different types of  
16 structures or did you come down on one type of  
17 structure?

18 A I don't think at that point -- I think it  
19 was still pretty much a decision that everyone was  
20 trying to make. We just gave a recommendation. We  
21 even included recommendations for variable rate  
22 financings. An issuer has a lot of options. We were

1 trying to present those to them, with the idea that  
2 what we were ultimately trying to do here was to get  
3 hired and to assist them with this financing.

4 Q Had you been working with any other firms  
5 at this point with regard to this project?

6 A I recall that when this came up, our first  
7 call was to Stephens to have a joint account with  
8 Stephens. We had had kind of a historical  
9 relationship with Stephens on housing and bond  
10 issues.

11 Just from the standpoint of the politics,  
12 we felt that Stephens is very strong, plus from the  
13 standpoint of capital. Bear in mind at this point,  
14 T.J. Raney & Sons had capital of 2 to \$2-1/2  
15 million. We are not a large firm. We are fairly  
16 small. We felt we needed a partner to take the  
17 underwriting risk. Stephens had done that for us  
18 before.

19 Our first call was to Stephens. They  
20 turned us down. They wanted to go by themselves on  
21 this. Our next call was to E.F. Hutton. E.F.  
22 Hutton, as we previously discussed, was a lead

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1 manager for ADFA and HDA.

2 In 1980 we completed a very difficult  
3 financing joint account with Hutton for the Little  
4 Rock Convention Center. The Texarkana jail deal I  
5 mentioned to you we were joint account with Hutton, a  
6 variable rate deal.

7 We just closed a three-handed deal with  
8 Hutton and Stephens for the University of Arkansas  
9 medical center. Hutton was kind of our Wall Street  
10 firm of preference at that time.

11 We called Steve Claiborne at Hutton and  
12 suggested that we partner on the deal. We obviously  
13 needed the capital, and although I had a lot of  
14 confidence in Paul Young to structure, this would  
15 have been -- it turned out it was the largest deal  
16 that we had senior managed in our history up to that  
17 point. We felt like we needed help.

18 Q You mention that Hutton had done some ADFA  
19 deals earlier. Did Hutton ever run into any problems  
20 in any of the ADFA bond underwritings they did?

21 A Sir?

22 Q Did they ever run into any problems with



1 any of the bond underwriting for ADFA?

2 A Define problems.

3 Q Did any of the bond offerings they did have  
4 any problems with defaulting or being near to  
5 default?

6 A There was -- the last deal we did when  
7 interest rates were really going through the roof, we  
8 ended up with a real high mortgage rate, and a lot of  
9 that money didn't go out, and it had to be called.  
10 That is something you never want to happen.

11 What happened was conventional rates -- the  
12 rate we were able to produce on a bond deal was not  
13 that much more attractive than just a conventional  
14 rate that any borrower could borrow.

15 There was a -- what is it called -- just  
16 sort of a call of bonds because the money did not go  
17 into mortgages. I think that was the last deal that  
18 Hutton senior managed. So, I guess that would be  
19 considered a problem.

20 Q Just out of curiosity, when you contacted  
21 them for the police radio deal, was that someone you  
22 thought about or considered?

1 A No, because it wasn't Hutton's fault.

2 Q Excuse me?

3 A It wasn't Hutton's fault.

4 Q During what period of time did you make the  
5 call to Stephens and Hutton? Was it before the  
6 meeting with Mr. Bratton or after?

7 A It was after the meeting with Mr. Bratton.

8 Q How long after would you say it was?

9 A It probably was within days, but I don't  
10 recall specifically.

11 Q Were any other underwriting firms involved  
12 in helping you put together this deal or structuring  
13 it?

14 A Well, yes.

15 Q Who was that?

16 A Lasater.

17 Q How did they become involved?

18 A I mentioned before that Michael Drake  
19 attended ADFA board meetings. Those were monthly  
20 meetings.

21 I remember a particular meeting, it must  
22 have been around this time frame, Michael Drake



1 telling me that they were working on the state police  
2 deal. I cannot remember exactly what Michael said,  
3 but I remember when I came back to my office, I  
4 talked to Paul Young and said Drake is representing  
5 to me that they are pretty far down the road on this  
6 state police financing.

7 Michael told me that he had met with Tommy  
8 Goodwin, who was state police director, and he met  
9 with Billy Simpson, who was Chairman of the State  
10 Police Commission. I kind of got the impression that  
11 they were personal friends.

12 So, my first reaction to that was we are  
13 behind. But what really happened was when I talked  
14 to Hutton about us going joint account, Hutton  
15 mentioned to me that they felt like Lasater should be  
16 involved.

17 Q Was that before or after you talked to  
18 Mr. Drake?

19 A After.

20 Q Did they say why?

21 A I guess Michael had told them the same  
22 thing he had told me.

1 Q Did they tell you that or you just assume  
2 it?

3 A I assume it.

4 Q You said you are under the impression that  
5 Mr. Drake and Mr. Simpson were friends?

6 A Yes.

7 Q Did he tell you that or just gave you the  
8 impression?

9 A Well, I went duck-hunting together with him  
10 one time, and they were members of the same club.

11 Q When was that?

12 A This was after the financing.

13 Q But the time he told you they had already  
14 begun work on it, did you have any idea or any belief  
15 that he was friends with Mr. Simpson?

16 A I don't recall specifically that. But I  
17 have the impression that they were friends, and I may  
18 have developed that sometime during the financing.  
19 I'm not sure.

20 Q When you said you spoke with Hutton, they  
21 said they thought Lasater should be included or  
22 involved. When did that happen? How soon after your

1 conversation?

2 A It must have happened pretty quick, because  
3 I think we wrote a letter to David mostly in early  
4 January, and it was submitted on behalf of ourselves  
5 and Hutton and Lasater, with a recommended  
6 structure.

7 Q I think I may have it. I just handed you  
8 and your counsel a multipage document bearing Bates  
9 stamp DKSJN 017938 through 940. It is a letter on  
10 T.J. Raney & Sons, Inc. letterhead dated January 4,  
11 1985. Please let me know once you have had a chance  
12 to review it.

13 (Witness examined the document.)

14 The document I just showed you addressed to  
15 Mr. David Mosely and signed by Paul B. Young, Jr., is  
16 that the document you just identified as the proposal  
17 you first sent over to the state police?

18 A Yes.

19 Q This was on January 4, 1985. Just to help  
20 put it in context, the first meeting with Mr. Bratton  
21 you said was in November --

22 A I think it was.

1 Q -- of 1984. How many meetings did you have  
2 with Hutton between your meeting with Mr. Bratton and  
3 this first proposal?

4 A I can't recall if we ever had any -- I  
5 can't recall. I'm sure there were telephone calls  
6 with Hutton.

7 Q How about with Lasater & Company?

8 A I don't even recall how that came about.

9 Q You mentioned earlier that you were one of  
10 the managers of this deal; right?

11 A Yes.

12 Q Were you all equal -- was it three equal  
13 managers?

14 A Yes.

15 Q One-third for each?

16 A Correct.

17 Q Did one firm or the other take a lead role  
18 in setting up the structuring of the deal?

19 A We did.

20 Q Did you consult Lasater & Company -- was  
21 Lasater & Company involved in setting up the  
22 structuring of the deal at all?

1       A    I'm sure they were involved in the  
2 discussions about it, because, as I mentioned to you  
3 before, they had been working on this deal really  
4 longer than we had. At least that's what they were  
5 representing to us.

6       Q    Did you ever come to learn that they hadn't  
7 been working on it as long as you thought they were?

8       A    No.

9       Q    They represented to you that they been  
10 working on the deal. What type of work did they say  
11 they had been doing on it?

12      A    I think that he mentioned to me that they  
13 had been working with the Mitchell firm to draft  
14 special legislation.

15      Q    Just so we are clear, were all your  
16 conversations on this with Mr. Drake?

17      A    Yes.

18      Q    Did he say when they began talking to the  
19 Mitchell firm?

20      A    No, I don't have any idea.

21      Q    Your first conversation with Mr. Drake, was  
22 that in November or December?

1       A    I can't recall. It must have been in  
2 November.

3       Q    Did he tell you how long he had been  
4 working on the deal before that?

5       A    No.

6       Q    Did you have any idea whether it was months  
7 or weeks?

8       A    No, I had no idea.

9       Q    You said that he told you he met with  
10 Mr. Goodwin and Mr. Simpson.

11      A    I don't know if he met with them. He  
12 dropped those names, though.

13      Q    Do you know if he had any meetings with  
14 anyone in the Governor's office?

15      A    I have no idea.

16      Q    Did he ever tell you that?

17      A    No.

18      Q    When you met with Mr. Bratton in November,  
19 did he indicate to you he had talked to other firms?

20      A    I think I got the impression that he had  
21 already talked to Michael.

22      Q    Did he tell you that?

- 1       A    I left there with that impression. I must  
2 have learned it from him.
- 3       Q    Did he relay the content of any discussions  
4 he had with Mr. Drake to you at that meeting?
- 5       A    Not that I recall.
- 6       Q    Did Mr. Bratton let you know or give you  
7 the impression that he had spoken with any other  
8 firms other than Lasater & Company?
- 9       A    I didn't know that based on what he told  
10 me.
- 11      Q    Have you since learned that he did?
- 12      A    I have not since learned that he did, but I  
13 do know that a lot of other firms were interested in  
14 it.
- 15      Q    Who first approached Lasater & Company  
16 about being a member of the underwriting team for the  
17 radio financing?
- 18      A    I can't recall.
- 19      Q    Would it have been you or Mr. Young?
- 20      A    That's possible. It could have been  
21 through Hutton. I just don't recall.
- 22      Q    Did anyone from T.J. Raney & Sons approach

- 1 Mr. Drake, to your knowledge, and indicate that the  
2 reason they were approaching Lasater & Company was  
3 because of their relationship with the Governor?
- 4       A    No. That's not why we did it.
- 5       Q    This is a question along the same lines.  
6 Did anyone from T.J. Raney & Sons approach Mr. Drake  
7 or anyone from Lasater & Company and inform them that  
8 one of the reasons they wanted them to join the  
9 underwriting was because Mr. Lasater and Lasater &  
10 Company had been kind to the Governor between the  
11 years of 1980 and 1982?
- 12      A    No.
- 13           MR. STRASSER: What was the word you used?
- 14           THE WITNESS: "Kind."
- 15           BY MR. O'CALLAGHAN:
- 16      Q    Or supported him.  
17           So, when Lasater & Company first became  
18 involved, did T.J. Raney first approach Lasater or  
19 did Lasater & Company first approach Raney and  
20 Hutton?
- 21      A    I don't recall.
- 22      Q    Do you recall being concerned that Lasater



1 & Company had already begun working on it?

2 A We wanted to be involved, and that seemed  
3 to be the strategy.

4 Q When you spoke with Mr. Drake in November,  
5 did he inform you that he had already done some work  
6 with the Mitchell law firm in preparing authorizing  
7 legislation?

8 A Yes. I think that's what you asked me  
9 about, yes.

10 Q Did he tell you how far along they were in  
11 any drafts they proposed or put together?

12 A I don't know. I can't recall.

13 Q Did he tell you whether or not he worked on  
14 that with anyone in the Governor's office in putting  
15 together the drafts?

16 A I thought he referred to the Mitchell  
17 firm. I thought it was referred to that in the  
18 letter you just showed me, the last page.

19 Q Do you know who at the Mitchell firm  
20 Mr. Drake was working with?

21 A No, I don't.

22 Q Did you have any contact with the law firm

1 working on the legislation or any input?

2 A Working on the legislation, no.

3 Q Did anyone in your firm?

4 A Not to my knowledge. But it would not have  
5 been unusual. I just don't know.

6 Q Did T.J. Raney, Hutton, Lasater coordinate  
7 efforts to put together authorizing legislation with  
8 the Governor's office?

9 A As I mentioned, Michael Drake had already  
10 made a contact with the Mitchell firm, and they had  
11 already begun working on the legislation that would  
12 be required for a leased financing. That predated  
13 our involvement with Drake. When we decided to work  
14 together, that became a part of our strategy.

15 Q Before you got involved working on the  
16 authorizing legislation or having that as part of  
17 your policy, do you know whether or not Lasater &  
18 Company or anyone from the firm worked with anyone in  
19 the Governor's office with regard to coordinating  
20 efforts to putting that legislation together?

21 A I don't know.

22 Q Did people at T.J. Raney have contact with

1 people in the Governor's office after this  
2 partnership was formed toward working on getting  
3 legislation together?

4 A I don't know. I don't recall anything  
5 specific.

6 Q Do you recall whether there was any contact  
7 with people at the Governor's office with regard to  
8 this financing with T.J. Raney employees?

9 A I don't recall anything specific.

10 Q I have one copy of this document. If you  
11 and your counsel could share. It is one page, a  
12 handwritten note, DKS N 017800.

13 (Witness examined the document.)

14 A Okay.

15 Q The first question is, have you seen this  
16 document before?

17 A No.

18 Q Do you recognize the handwriting on the  
19 document?

20 A No.

21 Q That's all. Thanks.

22 When you first -- when T.J. Raney first

1 joined up with E.F. Hutton and Lasater & Company -- I  
2 guess E.F. Hutton was on board before Lasater; is  
3 that correct?

4 A Yes, I guess.

5 Q Were there any concerns expressed about any  
6 problems that Lasater & Company might have had with  
7 disciplinary problems?

8 A No.

9 Q How about net capital problems? Are you  
10 aware of any of those?

11 A No.

12 Q Did anyone from T.J. Raney & Sons attend a  
13 meeting sponsored by E.F. Hutton and Lasater &  
14 Company on January 10, 1985 at the Legacy Hotel in  
15 Little Rock?

16 A I don't recall that.

17 Q I would like to have you take a look at a  
18 multipage document Bates stamps DKS N 027487 through  
19 DKS N 027562. It is a fairly lengthy document. I'm  
20 going to ask you some very specific questions about  
21 it. The cover page, "Presentation to the state of  
22 Arkansas regarding financing structures and

1 investment banking services January 10, 1985," E.F.  
2 Hutton & Company, Inc. and Lasater & Company."

3 If you could just -- I show it to your  
4 counsel and you.

5 (Witness examined the document.)

6 A You don't expect me to read all this, do  
7 you?

8 Q No, I do not.

9 A I'm not. What are your questions?

10 Q The first question is, have you ever seen  
11 this before?

12 A No.

13 Q I can't help but notice you are laughing.  
14 Is there a reason for that?

15 A This strikes me as funny.

16 Q Why is that?

17 A Maybe I should read this. I have never  
18 seen this before. I don't know anything about it.

19 Q Were you aware there was a meeting with the  
20 Governor and E.F. Hutton & Company and Lasater &  
21 Company?

22 A No.

1 MR. STRASSER: You are telling him there  
2 was such a meeting?

3 BY MR. O'CALLAGHAN:

4 Q I'm asking if you know.

5 A I don't know.

6 Q I am asking if you are aware there was such  
7 a meeting.

8 A I don't know anything about it.

9 Q After taking a cursory glance at the  
10 documents, I noticed you were laughing. Was there a  
11 specific reason for that?

12 A Just that I had never seen it. It looks  
13 like a letter from Hutton and Lasater addressed to  
14 the Governor. It is about -- let me see what it is  
15 about. We are not included in it.

16 Q Is the reason you are laughing because you  
17 weren't included in it?

18 A Yes, I guess that's why I was laughing. As  
19 I look at this letter, it looks like it is Housing  
20 Development Agency. Is that the topic?

21 Q There is a general title on the front of it  
22 regarding financing structures and investment banking

1 services.

2 A Uh-huh.

3 Q I can only judge on what the document  
4 says. If you look at the table of contents, there is  
5 a number of different services which have been  
6 identified and I think section 5 is police  
7 communication financing as well.

8 A Where is that?

9 (Witness examined the document.)

10 MR. STRASSER: It is 27531.

11 THE WITNESS: Okay.

12 BY MR. O'CALLAGHAN:

13 Q I guess we can start with, on January 10,  
14 '85, had you joined in the partnership with Hutton  
15 and Lasater & Company?

16 A I think our letter of January 4th would  
17 indicate that, yes.

18 Q Would you have expected to be included in a  
19 meeting, a presentation which included a police  
20 financing structure given to the Governor around this  
21 time period?

22 A Yes.

1 Q Do you know any reason why you wouldn't be  
2 included in such a meeting?

3 A It just looks like it is a larger letter on  
4 a lot of different topics. It looks like Hutton  
5 had -- I'm looking at Hutton and Lasater. They were  
6 trying to promote their interests on a larger front  
7 with state business.

8 Q With regard to the police financing, I want  
9 to make sure we are clear, the first contact with  
10 Hutton was made by T.J. Raney; is that right?

11 A Yes.

12 Q Would you be upset on January 10, 1985 if  
13 you had been made aware that there was a meeting with  
14 Hutton & Company and Lasater & Company making a  
15 presentation to the Governor of this nature?

16 A Upset, probably not.

17 Q Amused?

18 A Amused, probably, yes.

19 Q Why is that?

20 A Well, because we were working as partners  
21 on one financing. But this is just business. I'm  
22 not shocked or surprised. It is just interesting.



1 That's all.

2 Q Okay. Thanks.

3 In around the period of January 1985, the  
4 winter 1984, did you have any discussions with anyone  
5 by the name of Mahlon Martin?

6 A No.

7 Q Do you know who Mahlon Martin is?

8 A Yes.

9 Q Did you know who Mahlon Martin was in  
10 January 1985?

11 A I don't really know. You know, he was with  
12 the city and then he was with the state. He recently  
13 died not too long ago. But I have never had a  
14 meeting with Mahlon Martin that I know of.

15 Q Did anyone from T.J. Raney or Hutton or  
16 Lasater meet with the State of Arkansas Department of  
17 Finance and Administration with regard to the police  
18 radio underwriting?

19 A I don't know.

20 Q Would you have expected someone to have a  
21 meeting like that?

22 A With DFA?

1 Q Yes.

2 A They typically don't get involved in bond  
3 financing. It is possible. I just don't recall.

4 Q Let me show you another document, multipage  
5 document. It is on State of Arkansas Department of  
6 Financing Administration letter to Governor Bill  
7 Clinton from Mahlon Martin, director. Subject,  
8 financing of Arkansas state police radio system. The  
9 date is January 17, 1985. Bates range is DKS 017813  
10 through 017818. Let me know when you have had a  
11 chance to review the document.

12 (Witness examined the document.)

13 A How specifically am I going to be asked  
14 about this?

15 Q I'm going to ask you about the -- generally  
16 about the feasible financing programs identified in  
17 the last three pages of the document.

18 A All right. I read that.

19 Q First of all, have you seen this document  
20 before?

21 A No.

22 Q I would like to direct your attention to

1 the page Bates 17816.

2 A Yes.

3 Q It looks like it is an appendix to the  
4 three-page letter that appears before it. It is  
5 entitled "Arkansas state police communications  
6 systems financing alternatives October 1, 1984."

7 Then it says "We have spent a considerable  
8 amount of time in an attempt to locate a feasible  
9 financing program for our proposed communication  
10 system. Several firms have discussed the various  
11 financial aspects of this system and several  
12 alternatives are listed," and then there is a list of  
13 five alternatives.

14 Is this list similar to the list you  
15 provided to Mr. Bratton?

16 A We didn't meet with him until November. I  
17 think we just had a discussion with him.

18 Q You didn't provide him with any written  
19 materials in that meeting?

20 A Not that I recall.

21 Q Had he mentioned to you that they had  
22 already spent time trying to locate a feasible

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1 financing program?

2 A As I testified before, I left there with  
3 the impression that Lasater talked to him and we were  
4 talking to him then. Beyond that, I didn't know.  
5 But it looks like the staff was looking at ways to  
6 finance it back then, which is what they should have  
7 been doing.

8 Q With regard to the five methods of  
9 financing that are listed here, outright purchase,  
10 lease purchase, escrow funding-lease purchase, and  
11 number four, issuance of debt, and the fifth is  
12 certificates of participation, were any of those  
13 methods of financing implemented in a final  
14 financing?

15 A The certificates of participation was the  
16 ultimate financing structure.

17 Q Do you recall when was the first time that  
18 T.J. Raney, Hutton and Lasater first made a written  
19 proposal to the state police?

20 A I think it was that January 4th date.

21 Q How about after that?

22 A It is typical on these deals that you

1 submit, and you submit to different people in  
2 different ways. I think we submitted at least two or  
3 three different times. There were written  
4 presentations and then there were oral  
5 presentations.

6 Q Do you know who the first firm was to  
7 provide the state police with a written proposal for  
8 the financing?

9 A I have no idea.

10 Q With regard to the underwriting team that  
11 worked on the police radio financing, who were all  
12 the different people from Hutton, Lasater and Raney  
13 that worked on it?

14 A Who were all the different people who  
15 worked on it?

16 Q Worked on getting the deal, doing the  
17 structure and the financing and the proposal, the  
18 principal people.

19 A The principal people with Hutton, Lasater  
20 and Raney?

21 Q Correct?

22 A Myself and Paul Young at my company,

1 Michael Drake at Lasater. At Hutton, Steve  
2 Claiborne, and then there were some Hutton people in  
3 New York, Laurel Esterlin.

4 Q How do you spell the last name?

5 A E-s-t-e-r-l-i-n, something like that. Bob  
6 Neptune I think was with E.F. Hutton leasing, because  
7 we ended up doing the lease deal. Those are the  
8 principal players. There may have been others.

9 Q Did you mention Steve Claiborne earlier?

10 A Yes. I think Bernard Beal also. I know he  
11 attended one meeting. He was Hutton, New York. I  
12 think Claiborne was in Texas at the time. I'm not  
13 sure.

14 Q Was he in Houston?

15 A Yes, he is now.

16 Q You said in connection with the police  
17 radio financing that you had at least one meeting  
18 with Mr. Lasater; is that right?

19 A Yes.

20 Q When did that occur?

21 A You know, I can't really recall, but it  
22 must have been before the January letter. I would

1 say within two weeks of the January letter. We had  
2 one meeting to discuss the team.

3 Q Where did that occur?

4 A It was at Lasater's office.

5 Q And who attended the meeting?

6 A Paul Young, myself. Bernard Beal was there  
7 for Hutton, Michael Drake was there. It was in Dan  
8 Lasater's office. He came in for part of the  
9 meeting. I don't think he was there for all of it.  
10 I know his bond guy, Joe Marfoglio, who ran his bond  
11 trading desk, was kind of in and out.

12 I don't think it was a sit-down meeting. I  
13 think we stood up the whole time. It was very  
14 brief.

15 Q What were the specifics of the discussion?

16 A I can tell you that it was determined there  
17 that we would be the lead manager.

18 Q That T.J. Raney would be?

19 A Right. That was kind of, I think, the  
20 purpose of the meeting. Of course, that was just  
21 fine with us.

22 Q Did you discuss breakdown of fees for each

1 group?

2 A Back in those days you split everything  
3 equally, and that's how we did it. I think the  
4 reason for us was that we of course wanted to be  
5 senior manager. We felt like we had the expertise to  
6 do it. We knew that Lasater did not.

7 We felt like doing business with a Wall  
8 Street firm is always sort of a perilous  
9 proposition. We didn't know how we would be treated  
10 in terms of distribution of the bonds.

11 I think it was actually Michael Drake's  
12 suggestion that we be senior manager for the reason  
13 that they knew they would get better treatment of us  
14 in the distribution of bonds than E.F. Hutton.

15 Q Did Hutton have a problem with not being  
16 lead?

17 A They probably had an ego problem with that,  
18 but they got over it.

19 Q Did they resist T.J. Raney being lead at  
20 all?

21 A They didn't at that point. They may have  
22 discussed it privately, but they had no negative



1 reaction to it at that point.

2 Q When we were discussing sharing the fees on  
3 the deal, are you referring to the management fees or  
4 the sales commissions? What is that in reference to?

5 A In a deal like that -- I am speaking  
6 specifically of the split of the management fee --  
7 the sales fee would really be determined by who sold  
8 the bonds.

9 We actually had three account managers, us,  
10 Hutton and Lasater, and then we had a syndicate or a  
11 selling group of other firms that were included that  
12 sold bonds in the account. Those firms made takedown  
13 in direct relationship to the bonds that they sold.

14 Q With regard to the three firms that were  
15 managing the deal, listed as managers, would they  
16 have distributed bonds to the syndicate firms? How  
17 did that work?

18 A The way it works is you have an order  
19 period where you go out and take orders from the  
20 managing firms and the syndicate members. Once the  
21 bonds are purchased from the issuer, those bonds are  
22 then distributed to the various firms that

1 participate in the sale.

2 Q Other than the management fee, was there  
3 any difference with regard to like Lasater & Company  
4 and the other syndicate firms in the distribution of  
5 the bonds?

6 A Yes, yes, there was a difference.

7 Q What was the difference?

8 A Well, their commissions were driven by the  
9 amount of bonds that they sold. So, in total, we  
10 made the same amount of management fee, but the sales  
11 commission side was determined by number of bonds  
12 sold.

13 Q Did the firms that were involved in the  
14 management of the deal, did they have a greater  
15 ability to make money off sales than just firms that  
16 were in the syndicate, or was that equal?

17 A In terms of ability to make money off of  
18 the sale, it was equal. Now, being a manager, you  
19 know about the deal, your salesmen know it is coming,  
20 you are able to say to your customers, we are a  
21 manager.

22 Because sometimes in a hot deal, when you

1 have more orders than you have bonds, then of course  
2 the managers are not going to give bonds to someone  
3 else's salesman; they will give them to their own.

4 There is an advantage to being the manager.

5 Q That's the value of being manager?

6 A Yes.

7 Q I would like to show you a multipage  
8 document DKSJ 017894 through 17913. It is on the  
9 letterhead which reads T.J. Raney & Sons Inc., E.F.  
10 Hutton, Lasater & Company dated February 25, 1985.  
11 It is addressed to Colonel Thomas L. Goodwin,  
12 director, Arkansas State Police.

13 On the second page the document has a  
14 signature line with Paul B. Young, Jr., Steven A.  
15 Claiborne and Michael Drake, without signatures on  
16 it. Attached is a table of contents and numerous  
17 attachments and other articles. I'm going to ask you  
18 some general questions about the document and then I  
19 will direct you to some specific portions as well.

20 (Witness examined the document.)

21 MR. STRASSER: This is some 19, 20 pages in  
22 length. I now haven't read all of this, but why

1 don't you start asking some questions and we will see  
2 if we need to read all of it before we answer.

3 MR. O'CALLAGHAN: I think we will be all  
4 right.

5 BY MR. O'CALLAGHAN:

6 Q Just generally, have you seen this document  
7 before or a form of this document before, which is  
8 dated February 25, 1985?

9 A Yes.

10 Q Where did you see it?

11 A I think we have a copy in our files.

12 Q Is this a copy of a proposal that was put  
13 together for purposes of doing the underwriting for  
14 the state police communication system?

15 A This is a written proposal that was  
16 submitted in follow-up to our letter of January 4th  
17 in which I believe we are making more specific  
18 recommendations as to the proposal.

19 Q Did the State Police Commission request  
20 T.J. Raney, Hutton and Lasater to make proposals at  
21 this point?

22 A I can't recall. I cannot recall if this

1 was the formal written presentation or if there was  
2 something we submitted on our own initiative. We do  
3 it both ways in our business.

4 Q Just to try to get an inside track on the  
5 business?

6 A Yes.

7 Q I would like to direct your attention to  
8 the third paragraph on the first page.

9 There is a paragraph reading "We have of  
10 necessity made certain assumptions in order to do  
11 this preliminary analysis of the financing. These  
12 assumptions are set forth in the following pages.  
13 Based upon these assumptions, subject to additional  
14 facts which are learned or developed and based upon  
15 current market conditions, the financing we propose  
16 provides for principal and interest payments of  
17 approximately \$3 million per year, substantially less  
18 than the current annual revenues for driver's license  
19 fees, an effective cost of borrowing of 4.7 percent  
20 per year."

21 Do you know how that 4.7 percent per year  
22 cost of borrowing was arrived at?

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1 A No, I don't.

2 Q Is the cost of borrowing a major factor  
3 involved in these types of financing?

4 A Sure.

5 Q How is that usually determined?

6 A The cost of the debt minus the interest  
7 earnings. It would be a net number.

8 Q Does that normally vary from proposal to  
9 proposal depending on how the structure is done?

10 A No.

11 MR. STRASSER: You are talking about  
12 proposals at this time. I think the law has changed  
13 since.

14 BY MR. O'CALLAGHAN:

15 Q At this time.

16 A Correct.

17 MR. STRASSER: In '85?

18 MR. O'CALLAGHAN: Correct.

19 BY MR. O'CALLAGHAN:

20 Q I didn't hear the answer.

21 A Yes, the cost of borrowing is and was at  
22 that point an important feature to consider because

1 it took into account not only the cost of debt, but  
2 interest earnings.

3 Q Would that vary from proposal to proposal?

4 A Yes.

5 Q From firm to firm, depending on how the  
6 deal was structured by the different firms?

7 A Correct.

8 Q Would you say that was a major element that  
9 the issuer would look at in determining who to hire  
10 as an underwriter?

11 A Yes.

12 Q Would that be the prevalent or the most  
13 important factor or would it be one of the most  
14 important factors?

15 A It would be the most important factor.  
16 That's how we got hired.

17 Q I would like to direct your attention to a  
18 specific page, if I can find it, 017904. It is page  
19 8. It says "Profile of Lasater & Company, Inc. "

20 A Yes.

21 Q The last full paragraph, "Lasater & Company  
22 served as the investment banking firm for Lasater,

1 Inc. in the \$19.5 million acquisition of Angel Fire  
2 Corporation in New Mexico in August 1994."

3 Were you familiar with that underwriting of  
4 that acquisition?

5 A Only from press accounts. I am not  
6 personally familiar with it.

7 Q Was that an acquisition that was used as a  
8 selling point to you to include Lasater & Company?

9 A No.

10 Q Then the last question I have is with  
11 regard to what is listed as Exhibit A on page 17905.  
12 That's the last question for now, at least on this  
13 document. It says "An act authorizing the leasing of  
14 communications equipment for the Department of the  
15 Arkansas State Police providing for the payment and  
16 security of the cost of the equipment and for other  
17 purposes."

18 Is this a copy or a draft of authorizing  
19 legislation that was anticipated?

20 MR. STRASSER: Give me a chance to read  
21 before you ask. The document will speak for itself  
22 as to what it is.



1 BY MR. O'CALLAGHAN:

2 Q The question is, with the proposal that you  
3 submitted in February of 1985 to the state police,  
4 did that include a draft of authorizing legislation  
5 for state police communications financing?

6 A I would just say apparently it did.  
7 Apparently this is a draft. I don't know that.

8 Q You don't recall?

9 A No.

10 Q It is your recollection that in February of  
11 '85, at that point a draft of authorizing  
12 legislation had been put together by the Mitchell law  
13 firm?

14 A Yes, I believe so.

15 MR. O'CALLAGHAN: Off the record.

16 (Discussion off the record.)

17 (Whereupon, at 12:55 p.m., the deposition  
18 was recessed, to be reconvened at 1:40 p.m. this same  
19 day.)  
20  
21  
22

1 AFTERNOON SESSION (1:40 p.m.)

2 Whereupon,

3 ROBERT L. SNIDER

4 resumed the stand and, having been previously duly  
5 sworn, was examined and testified further as follows:

6 MR. O'CALLAGHAN: Let's go back on the  
7 record.

8 EXAMINATION (Continued)

9 BY MR. O'CALLAGHAN:

10 Q Mr. Snider, I want to show you a multipage  
11 document. It has a cover page reading "Presentation  
12 to the State Police Commission for the State of  
13 Arkansas." It says "Prepared by" -- the margin has  
14 been cut off a little bit -- "Raney & Sons Inc., E.F.  
15 Hutton and Lasater & Company." DKS N 027805 and  
16 continues through 027873.

17 Let me know when you have had a chance to  
18 review it and I will have some general and specific  
19 questions.

20 (Witness examined the document.)

21 Have you seen this document before?

22 A Yes.

1 Q When did you see it?

2 A I think we have a copy in our files.

3 Q The second page of the document is on E.F.  
4 Hutton letterhead. It is dated April 22, 1985, a  
5 letter addressed to Mr. David Mosely, fiscal officer,  
6 Arkansas State Police. It is regarding state police  
7 communications financing and it is signed three  
8 signatures, Paul B. Young, Jr., Steven A. Claiborne  
9 and Michael Drake.

10 Did you have any role in preparing this  
11 document?

12 A No.

13 Q When did you first see this document?

14 A I may have seen it back at the time, but I  
15 saw it when I reviewed the files.

16 Q To your knowledge, is this the proposal  
17 that was given by T.J. Raney & Sons, E.F. Hutton,  
18 Lasater & Company to the Arkansas Police Foundation  
19 for financing the radio system?

20 MR. STRASSER: Do you want him to read  
21 every page?

22 MR. O'CALLAGHAN: I'm asking if, as far as

1 he knows, is this a copy of the document that was  
2 presented to the State Police Commission.

3 MR. STRASSER: You are asking if he has a  
4 present memory of whether this is the proposal. Go  
5 right ahead and ask him. The answer you get will be  
6 worth whatever it is worth.

7 MR. O'CALLAGHAN: Okay.

8 THE WITNESS: Could you ask the question  
9 again.

10 BY MR. O'CALLAGHAN:

11 Q As far as you know, is this the document,  
12 the proposal that was presented to the State Police  
13 Commission by E.F. Hutton, T.J. Raney & Sons and  
14 Lasater & Company with regard to the state police  
15 radio financing?

16 A As far as I know, this looks like our  
17 written proposal that was submitted in response to  
18 the request for a written proposal.

19 Q Do you have any reason to believe that it  
20 isn't the proposal that was presented?

21 A No, I don't have any reason to believe that  
22 it is not.

1 Q Directing your attention to the second  
2 page, which is Bates stamped 27851.

3 A Yes.

4 Q Again, in the third full paragraph, there  
5 is a sentence which begins halfway down that  
6 paragraph, "Based upon these assumptions, subject to  
7 additional facts which are learned or developed, and  
8 based upon current market conditions, the financing  
9 we propose provides for principal and interest  
10 payments of approximately \$3.17 million per year and  
11 an effective cost of borrowing at 4.4 percent per  
12 year."

13 Is 4.4 percent per year effective cost of  
14 borrowing consistent with your recollection of what  
15 the proposed cost of borrowing that T.J. Raney and  
16 Lasater and Hutton submitted with their proposal?

17 A I don't know. I have no way to know.

18 Q Do you know what the actual effective cost  
19 of borrowing was in the deal that was eventually  
20 done?

21 A No.

22 Q Do you know if it was higher or lower than

1 the one that was proposed?

2 A I don't. I don't know.

3 Q Have you ever heard that there is an  
4 accusation made that the rates proposed in this  
5 proposal were lower than what could actually be  
6 accomplished with the finished deal?

7 A No, I have never heard that accusation.

8 Q With the number that is presented here,  
9 with the anticipated cost of borrowing at 4.4 percent  
10 per year, would that be considered to be a hard  
11 number or a number that was considered to be  
12 flexible?

13 MR. STRASSER: Would it be considered to be  
14 by whom?

15 MR. O'CALLAGHAN: By Mr. Snider.

16 THE WITNESS: No, it would not be  
17 considered to be a hard number.

18 BY MR. O'CALLAGHAN:

19 Q What would cause that to change?

20 A Just like the letter says, based on  
21 assumptions. Assumptions change.

22 Q Within a certain degree of -- strike that

1 question.

2 I would like to direct your attention to  
3 page 27856. The top reads "Sources and uses of  
4 funds," and it has two tables of sources and uses and  
5 then has a number of numbered items, number 5 of  
6 which is "Underwriters' discount is 2.5 percent of  
7 the issue."

8 A Uh-huh.

9 Q What does that refer to?

10 A That refers to really the gross fee amount  
11 for the entire underwriting team, the difference in  
12 the purchase price from the issuer and resale to the  
13 public, 2-1/2 percent.

14 Q Is that a percentage that is proposed by  
15 the underwriters?

16 A Yes.

17 Q Is that percentage that is usually standard  
18 throughout different deals or does it depend on the  
19 structure of the deal?

20 A Depending on the structure of the deal.

21 Q If that percentage is higher, is that a  
22 cost that is incurred by the issuer?

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1 A The issuer has to pay all the money back,  
2 and the greater the discount, the more the cost to  
3 the issue.

4 Q I would like to direct your attention to  
5 page 4, the next page, 27857.

6 A Okay.

7 Q There are some tables which read "Debt  
8 service schedule." Could you briefly describe what  
9 that refers to.

10 A This is an estimate apparently that was  
11 made in April of how \$25 million could be amortized.  
12 What it is intended to show is principal and interest  
13 on the bonds offset by debt service reserve fund  
14 income to get to a net debt service fee.

15 Q The table says "period ending" and then it  
16 has principal and then a column says rate and another  
17 says interest and scheduled debt service. Then there  
18 is DSRF and income and then net debt service.

19 With regard to the first three columns, the  
20 period ending 12/1/85, principal, rate and interest,  
21 there don't appear to be any numbers under principal  
22 and rate. Is there a reason for that?



1 A I don't understand.

2 MR. STRASSER: You are asking him about a  
3 document that he didn't prepare, that he can't swear  
4 to you that he saw contemporaneously and you are  
5 asking him to explain it?

6 BY MR. O'CALLAGHAN:

7 Q Are you familiar with the debt service  
8 schedule that was set up that was part of the deal  
9 for the police radio financing?

10 A No.

11 Q Who would be familiar with that?

12 A This is on E.F. Hutton letterhead. I don't  
13 know who actually prepared it.

14 Q Did T.J. Raney have a role in helping  
15 determine what the debt service schedule would be in  
16 connection with this deal?

17 A On this particular document, I do not know  
18 if that was produced by T.J. Raney or E.F. Hutton or  
19 who made those assumptions at that time.

20 Q So, you were not familiar with the debt  
21 service schedule at the time of the deal?

22 A No. This was a written proposal submitted

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1 in April.

2 Q Did you have any degree involvement with  
3 the proposal at that time?

4 A The written proposal, no.

5 Q Did you have a role with regard to the  
6 state police underwriting at that time?

7 A Yes.

8 Q What was your role at that time?

9 A I was manager of the public finance  
10 department of T.J. Raney & Sons. At that time we  
11 were probably working on 10 or 15 deals, and I had a  
12 supervisory role.

13 Q Do you have any knowledge of when the April  
14 proposal was delivered to the State Police  
15 Commission?

16 A When? No.

17 Q Before T.J. Raney, Hutton and Lasater  
18 submitted their proposal to do the underwriting for  
19 the State Police Commission, had T.J. Raney, Lasater  
20 or Hutton been in receipt of any of the proposals of  
21 any of the other firms competing for the  
22 underwriting?

1 A Not that I know.

2 Q Did anyone in the Governor's office have  
3 any contact with anyone at the State Police  
4 Commission with regard to the selection of  
5 underwriters for the police radio bond underwriting?

6 A I don't know how I would know a thing like  
7 that. I don't know a thing like that.

8 Q Did you ever hear that?

9 A No.

10 Q Did you have any discussions with anyone on  
11 the State Police Commission with regard to what  
12 criteria they were using for choosing underwriters?

13 A Did I talk to any members of the state  
14 police about criteria for selection of the  
15 underwriters? No.

16 Q Did anyone at T.J. Raney?

17 A I don't know.

18 Q How about Lasater & Company?

19 A I don't know.

20 Q Would that be a normal course of business,  
21 to contact the people at the State Police Commission  
22 with regard to what they were looking for as far as

1 criteria for underwriters?

2 A Would that be normal? Yes, that would be  
3 normal.

4 Q Would that have been a contact that would  
5 have been made by the lead manager of T.J. Raney or  
6 would it have been done by Hutton or Lasater, or  
7 could it have been done by all three?

8 A I don't know how to answer that. Since I  
9 told you that we didn't do it but that it would be  
10 normal, then I have no knowledge of if anybody did or  
11 who did.

12 Q Are you aware of the analysis conducted by  
13 the State Police Commission in reviewing the  
14 proposals by the various underwriters?

15 A I am aware of an analysis performed for a  
16 member of the State Police Commission by an actuary  
17 that was instrumental in their process.

18 Q And who was that?

19 A I don't know his name. The commissioner or  
20 the actuary?

21 Q The actuary.

22 A I don't know his name.

1 Q Was it a John Meyer?

2 A I have seen that name in press accounts,  
3 but I don't know him. We didn't have anything to do  
4 with it.

5 Q How did you become aware that an analysis  
6 was done?

7 A In the oral presentation, one of the  
8 commissioners, Johnny Mitchum, stated that he was  
9 having difficulty making an apples-to-apples  
10 comparison of the competing firms.

11 There were seven firms competing for this.  
12 They narrowed it down to four. Of the four, he was  
13 having difficulty making an apples-to-apples  
14 comparison of the projected benefits of the  
15 underwriting team. He employed an outside actuary to  
16 look at the numbers, who came to the conclusion that  
17 we had the best proposal.

18 Q This was during the day when oral  
19 presentations were given by the competing firms?

20 A That's when I was first aware of that.

21 Q Did you attend the oral presentation?

22 A Yes.

1 Q Did you deliver an oral presentation?

2 A I think I was involved. There were several  
3 of us involved in our presentation.

4 Q Who was there for that?

5 A Paul Young, myself. There were two or  
6 three people there with E.F. Hutton. As you may  
7 know, E.F. Hutton had troubles of their own at that  
8 point, and a lot of the questioning had to do with  
9 E.F. Hutton.

10 I'm sure that Michael Drake was there, but  
11 I don't recall him saying anything. He may have. I  
12 just don't recall.

13 Q Was anyone else there from Lasater &  
14 Company?

15 A Not that I'm aware.

16 MR. FEUER: Just for the sake of clarity,  
17 let me ask one question. What were the troubles that  
18 Hutton was experiencing that you just referred to?

19 THE WITNESS: The oral presentations were  
20 in early May, I think May the 10th, something like  
21 that. On May the 1st, there was an article in The  
22 Wall Street Journal to the effect that E.F. Hutton

1 had pled guilty to a 2000-count indictment for mail  
2 and wire fraud.

3 When that came out, there was some press  
4 coverage of the deliberations of the commission in  
5 narrowing the group from seven to four. And in the  
6 press coverage, there was an article that said they  
7 were really concerned about E.F. Hutton because of  
8 this having pled guilty to this problem.

9 When that came out, we were all concerned  
10 about whether that was going to jeopardize our team.  
11 So, that was the problem I was referring to.

12 BY MR. O'CALLAGHAN:

13 Q Just for accuracy and clarity's sake, I  
14 will show you a document DKS N 027874. It is a  
15 one-page document which is minutes of meeting of  
16 financial screening committee for communication  
17 system dated April 24, 1985.

18 Halfway down the minutes, there is a  
19 section which reads "The financing proposals were  
20 received until 9:00 a.m. on April 22, 1985. Eight  
21 proposals were received."

22 Please take a look at that, just so we are

1 clear on the number of proposals in case your memory  
2 wasn't accurate, if that helps refresh.

3 MR. STRASSER: He didn't testify he had a  
4 failure of recollection. If you think he is mistaken  
5 about the number of proposals, then we will just go  
6 on.

7 MR. O'CALLAGHAN: Sure, just to make sure  
8 everything is accurate.

9 (Witness examined the document.)

10 THE WITNESS: What is the question?

11 BY MR. O'CALLAGHAN:

12 Q You testified earlier that you thought that  
13 there were seven firms that had submitted proposals.  
14 I just wanted to know, looking at this, if you  
15 remember whether there were seven or eight.

16 A I think what I was going on there was we  
17 received a letter once we were notified that we were  
18 hired and maybe they said seven other firms. That's  
19 what the source of that is.

20 Q Okay. With regard to the problems that  
21 Hutton was experiencing, did anyone at T.J. Raney or  
22 Lasater & Company have problems or have concerns



1 about the legal problems that Hutton was experiencing  
2 with regard to their ability to participate  
3 effectively in the underwriting?

4 A Our concerns were not whether they were  
5 capable or not but just sort of the PR fallout from  
6 that.

7 Q Was the Hutton, Lasater, Raney group  
8 eventually chosen to do the underwriting for the  
9 police radio?

10 A Yes.

11 Q Am I correct that it was narrowed down to  
12 four proposals?

13 A Correct.

14 Q Were you ever informed of why your group  
15 was chosen over the other three?

16 A Yes.

17 Q Without being too unnecessarily technical,  
18 can you explain why that was?

19 A We included a one-year debt service reserve  
20 in our proposal. For some reason Stephens only had a  
21 six-month debt service reserve in their structure.

22 At that point you could have unlimited

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1 arbitrage earnings of the investment rate over the  
2 bond rate. Since we had a larger debt service  
3 reserve, twice the amount of Stephens, then we were  
4 able to generate more earnings. Those additional  
5 earnings were reflected in our proposal and in our  
6 written and our oral presentation.

7 The commission, especially the actuary, was  
8 able to document that. We got hired on the merits.

9 Q Can you explain what you mean by higher  
10 arbitrage earnings?

11 A Every bond financing has a debt service  
12 reserve which is equivalent to an amount you just put  
13 back in case there is a default. We had a one-year's  
14 principal and interest in a reserve fund.

15 Prior to -- and counsel here will know  
16 what -- 1986, there was an ability to invest that  
17 money at whatever rates you could invest it in. We  
18 were able to invest it. Because it was a larger  
19 principal amount, we were able to get twice the  
20 investment earnings off the debt service.

21 Is that sufficient?

22 Q Yes. Was there any specific language in

1 the legislation that authorized the underwriting?

2 MR. STRASSER: The legislation will speak  
3 for itself. Don't ask him questions about the  
4 legislation. It either says it or it doesn't say  
5 it. He is not a lawyer. He didn't write it.

6 BY MR. O'CALLAGHAN:

7 Q Are you aware that there were complaints  
8 made by competitors of yours that certain aspects of  
9 your structure, structuring of the deal with regard  
10 to payment schedules were not provided for in the  
11 legislation?

12 A No.

13 Q Did you attend a May 17 Arkansas  
14 legislative council meeting --

15 A Yes.

16 Q -- in 1985? Was the underwriting of the  
17 state police communication network discussed during  
18 that meeting?

19 A Yes.

20 Q Do you recall any comments that were made  
21 during that meeting by Mr. Neil Hertenstein of  
22 Clayton Brown Company?

1 A Yes, I do. I remember he was there. I  
2 remember he talked. I remember he was upset. I  
3 don't know what he said.

4 Q You don't recall what he said?

5 A No.

6 Q I would like to show you a document  
7 entitled "Minutes of the meeting of the Arkansas  
8 legislative council, Friday May 17, 1985," DKS  
9 027211 through DKS 027222. I'm going to direct your  
10 specific attention to beginning on page 3, "Reports  
11 on joint interim committees, communications study  
12 committee, state police communication."

13 I would like you to review the paragraph  
14 starting "Chairman Benham."

15 A Okay.

16 (Witness examined the document.)

17 I have read it.

18 Q I will mainly ask you about the references  
19 to Mr. Hertenstein's comments.

20 A Okay.

21 Q The first question is, after reading the  
22 portion I just identified for you, does that help

1 refresh your recollection as to what Mr. Hertenstein  
2 said during the meeting?

3 A Yes.

4 Q I would like to direct your attention to  
5 page 4, about four lines down, the sentence  
6 "Mr. Hertenstein stated that his company was  
7 proposing that the state make payments on a monthly  
8 basis, which incidentally was stipulated in  
9 legislation passed last session of the Arkansas  
10 General Assembly. The Raney, Hutton, Lasater  
11 proposal proposed annual and semiannual payments."

12 Do you recall him making that distinction  
13 between the two proposals?

14 A I don't recall that.

15 Q Do you recall complaints with regard to the  
16 fact that the Raney, Hutton, Lasater proposal  
17 proposed annual and semiannual payments?

18 A I don't recall.

19 Q Were there ever any complaints made that  
20 the Raney, Hutton, Lasater proposal did not comply  
21 with the legislation which authorized this  
22 underwriting?

1 MR. STRASSER: You asked that before and he  
2 told you he didn't recall that.

3 THE WITNESS: No.

4 BY MR. O'CALLAGHAN:

5 Q During the spring and summer of 1985, were  
6 you aware of any opposition to the authorizing of the  
7 award for the underwriting to T.J. Raney, Lasater and  
8 Hutton that was raised by the legislative council?

9 A Was I aware of opposition to the award?  
10 Yes, I was.

11 Q What was your understanding of that?

12 A That at the meeting on -- whenever the  
13 first legislative council meeting was, the  
14 recommendation on the State Police Commission was  
15 defeated on a narrow vote. I can't recall exactly  
16 what was going on there. I knew that the vote was  
17 not approved.

18 Q What was your reaction upon hearing that?

19 A Well, we were very disappointed, but  
20 honestly, when I went to the meeting and I saw that  
21 Paul Benham was chairman of the committee, whose son  
22 was a partner of Stephens, and I saw Jack Stephens

1 there, I figured they had worked the deal pretty  
2 well.

3 This was just normal competition in  
4 Arkansas. They wanted the deal. They managed to get  
5 enough votes for it not to be approved on that  
6 occasion. I think they put it off a week, and I  
7 think they met a week later and approved it.

8 Q Did anyone from the underwriting group take  
9 any steps to convince any legislators to rethink  
10 their positions?

11 A I don't know. We didn't.

12 Q When you say "we didn't," you mean T.J.  
13 Raney?

14 A T.J. Raney & Sons didn't, no.

15 Q Did you or anyone at T.J. Raney have any  
16 contact with anyone in the Governor's office with  
17 regard to the rejection of the proposal?

18 A No.

19 Q Did anyone at Lasater & Company?

20 A I don't know.

21 Q How about at E.F. Hutton?

22 A I don't know.

1 Q Did anyone in the Governor's staff approach  
2 any state legislators about changing their votes on  
3 the rejection of the proposal?

4 A I have no idea.

5 Q Did the Governor approach any of the  
6 legislators about changing their votes on the  
7 proposal?

8 A I have no personal knowledge of that.

9 Q Have you ever been told that?

10 A Have I been told that? No.

11 Q Have you learned it through other means or  
12 been informed of it through other means?

13 A It seems like I read a newspaper article  
14 about it after the fact.

15 Q Other than that, any other means?

16 A That's it.

17 Q Was any of the money that was raised  
18 through the underwriting after the bonds were sold,  
19 was any of the money raised through any of the  
20 underwriting firms doing the deal?

21 A Say that again. I'm not sure I  
22 understand.



1 Q The question is whether -- let me rephrase  
2 the question. Let me get back to that.

3 In connection with this underwriting and  
4 the financing of the project, were any other funds  
5 used other than the funds raised through the selling  
6 of the bonds?

7 A For the completion of the project?

8 Q Correct.

9 A The police communication system?

10 Q Correct.

11 A I don't know.

12 Q Do you know if fees from driver's license  
13 renewals or driver's licenses were utilized?

14 A Fees from driver's licenses were the actual  
15 stream of revenue that was pledged to the repayment  
16 of the debt.

17 Q Whose idea had it been to use the driver's  
18 license revenue for that purpose?

19 A I have no idea.

20 Q Do you know if it was someone from an  
21 underwriting group or from the state?

22 A I have no idea.

1 Q Was any of the money that was raised from  
2 the driver's license fees or revenue invested for any  
3 period of time after it was collected during the  
4 underwriting?

5 A I'm not sure I understand.

6 Q The fees that were raised from the driver's  
7 licenses --

8 MR. STRASSER: Are you asking if the state  
9 of Arkansas invested the money it received from the  
10 driver's license fees? Are you asking him that?

11 MR. O'CALLAGHAN: If he knows, yes.

12 MR. STRASSER: Go right ahead.

13 THE WITNESS: Please ask the question  
14 again.

15 BY MR. O'CALLAGHAN:

16 Q I am probably not being very clear. The  
17 question is whether the fees that were raised from  
18 the driver's license renewals that were committed to  
19 the stream of revenue for the repayment of the debt,  
20 was any of that money invested through any of the  
21 underwriting firms involved in the deal?

22 A Not that I know. Those are state revenues.

1 Q Did T.J. Raney receive any investment money  
2 from either -- from the state in connection with this  
3 underwriting?

4 A Not that I know.

5 MR. STRASSER: Are you asking him whether  
6 T.J. Raney had anything to do with what he described  
7 earlier as the debt reserve, as putting that in  
8 Treasury bills? Is that what topic you are trying to  
9 get at? Is that what you mean by "investing"?

10 MR. O'CALLAGHAN: That's what I'm getting  
11 at.

12 MR. STRASSER: It took me three rounds of  
13 questioning for me to realize that was what you were  
14 getting at.

15 THE WITNESS: I don't know any investment  
16 of funds by T.J. Raney & Sons in association with  
17 those funds. I don't know of any.

18 BY MR. O'CALLAGHAN:

19 Q I apologize for not being clear on the  
20 question.

21 During the period 1983 through 1986, did  
22 you know Governor Clinton at all?

1 A Yes.

2 Q How did you know him?

3 A I read about him in the paper every day. I  
4 knew him personally before he was Attorney General.

5 Q Did you have any contact with him during  
6 that time period?

7 MR. STRASSER: What exactly is the  
8 relevance of this?

9 MR. O'CALLAGHAN: Once again, this is  
10 relevant with regard to referring to the Governor's  
11 relationship with the people involved with the  
12 different underwriting contracts, Lasater &  
13 Company --

14 MR. STRASSER: You are asking him about his  
15 friendship with Clinton to see about Lasater's  
16 underwriting contract? I am surprised you can keep a  
17 straight face when you say that.

18 MR. O'CALLAGHAN: He has been involved with  
19 underwritings both with ADFA and --

20 MR. STRASSER: Your question had nothing to  
21 do with that, nothing. You just asked him how does  
22 he know Clinton.

1 MR. O'CALLAGHAN: Exactly.

2 MR. STRASSER: I will instruct him not to  
3 answer that. You find something relevant to your  
4 inquiry.

5 MR. O'CALLAGHAN: Just so you think I am  
6 not going off the deep end --

7 MR. STRASSER: I think you are far off the  
8 deep end.

9 MR. O'CALLAGHAN: That's your prerogative  
10 to think that in representing your client. If you  
11 will permit me to explain.

12 MR. STRASSER: I will give you a second  
13 try.

14 MR. O'CALLAGHAN: I'm trying to establish  
15 what Mr. Snider's relationship is at all with  
16 Governor Clinton, as to how that relates to his  
17 knowledge of Governor Clinton's relationship with  
18 Mr. Lasater.

19 MR. STRASSER: Ask him that.

20 MR. O'CALLAGHAN: I have to lay a  
21 foundation.

22 MR. STRASSER: You don't.

1 MR. O'CALLAGHAN: It is my responsibility  
2 as counsel to the committee, I have to develop a  
3 sufficient foundation that satisfies me in my  
4 background.

5 MR. STRASSER: I think you are prying into  
6 private matters that have nothing to do with the  
7 committee's inquiry, and I will instruct him not to  
8 answer it.

9 MR. O'CALLAGHAN: The purpose of the  
10 question was not to pry in any way into those private  
11 matters.

12 MR. STRASSER: It is not a question of your  
13 subjective intention in asking the question. There  
14 is no conceivable relevance to that question and your  
15 proffered explanation for the basis of it.

16 MR. O'CALLAGHAN: The record is what it  
17 is.

18 BY MR. O'CALLAGHAN:

19 Q I would be happy to ask you right now  
20 whether you have any knowledge of the Governor's  
21 relationship with Mr. Lasater.

22 A No. Personal knowledge, no.

1 Q Do you have any knowledge -- you said  
2 personal. Do you have any other knowledge of the  
3 relationship?

4 A Only that which would be available to  
5 anyone who reads the paper.

6 Q During the period 1983 through 1986, did  
7 you have any communications with Governor Clinton  
8 with regard to underwriting contracts with regard to  
9 ADFA, AHDA or the state police communication system?

10 A No.

11 Q Do you have any knowledge of Mr. Lasater's  
12 relationship with Roger Clinton?

13 A No, other than what I read in the paper.

14 Q During the period 1983 through 1986, did  
15 you have any contact with Roger Clinton?

16 A No.

17 Q I believe you testified earlier that you  
18 met Mr. Lasater one time; is that correct?

19 A In the period 1983 to 1986, that's  
20 correct.

21 Q Does that include all contact, both social  
22 and professional?

1 A Correct.

2 Q Other than Mr. Drake and Mr. Lasater, did  
3 you have contact with anyone else at Lasater &  
4 Company?

5 A No.

6 Q Do you have any knowledge of any campaign  
7 contributions given to either Governor Clinton's  
8 campaign or inaugural funds by anyone at Lasater &  
9 Company?

10 A No.

11 MR. O'CALLAGHAN: I would like to go off  
12 the record for about five minutes.

13 (Recess.)

14 BY MR. O'CALLAGHAN:

15 Q I just have one more question. This is  
16 with regard to your knowledge of events during 1985,  
17 whether you had any knowledge that there was -- that  
18 Mr. Lasater was under criminal investigation at any  
19 time during 1985.

20 A I did not know that. You mean at the time  
21 of the state police financing? Is that specifically  
22 what you are asking?



1 Q At any time during the year.

2 A I don't know when all of that came out.

3 Q Did you eventually learn that he was under  
4 investigation?

5 A When the grand jury announced his  
6 indictment on live television, I figured it out.

7 Q Before that, did you have any knowledge?

8 A No.

9 MR. O'CALLAGHAN: I have no further  
10 questions at this time.

11 EXAMINATION

12 BY MR. FEUER:

13 Q Mr. Snider, let me introduce myself again.  
14 My name is Mitchell Feuer. I am a counsel on the  
15 Minority staff of the Senate Banking Committee, and  
16 for purposes of this deposition, I will be asking you  
17 questions on behalf of the Minority members of the  
18 Senate Special Committee on Whitewater.

19 The questions that I'm going to ask you  
20 will cover the same areas that Mr. O'Callaghan has  
21 already asked you about. I apologize for the  
22 repetitive nature of this proceeding. I will try to

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1 move as quickly as possible. If at any time you  
2 don't understand my question, please let me know and  
3 I will try to explain myself or rephrase the question  
4 so that you do understand it.

5 If at any time you want to take a break or  
6 you wish to confer with your counsel, please let me  
7 know and we will go off the record for that purpose.

8 A Okay.

9 Q Was the underwriting of bonds for the  
10 Arkansas State Police Commission that we have  
11 discussed today a type of underwriting known as a  
12 firm commitment underwriting?

13 A No.

14 Q What type of underwriting was it?

15 A A negotiated underwriting.

16 Q Did the Raney, Hutton and Lasater firms  
17 commit to purchase the bonds issued by the Arkansas  
18 State Police Commission?

19 A What we committed to do was to have a  
20 best-efforts offering of securities into the market  
21 and to take indications of interest for bonds on the  
22 date of sale, to confer with the issue with the State

1 Police Commission. We advised them before we went  
2 into the market as to what they could expect in terms  
3 of an interest rate.

4 At some point in the process of selling the  
5 securities, we would underwrite or make a firm  
6 commitment to the issuer that we would buy the  
7 securities at a certain price. That's what we did.  
8 We underwrote the bonds at a price agreeable to the  
9 issuer.

10 That's basically a best-efforts negotiated  
11 underwriting as opposed to a firm commitment  
12 underwriting.

13 Q Did the Raney, Hutton and Lasater firms  
14 each purchase bonds issued by the State Police  
15 Commission?

16 A They were purchased on behalf of the  
17 account, and from the offering each of the firms sold  
18 bonds.

19 Q Was each firm's ability to make money from  
20 the underwriting dependent on each firm's ability to  
21 sell bonds to investors?

22 A Correct.

1 MR. O'CALLAGHAN: Other than the management  
2 fee; right?

3 THE WITNESS: Correct.

4 BY MR. FEUER:

5 Q Was it your expectation that T.J. Raney  
6 would earn more from reselling the bonds to investors  
7 than it would from the management fees received from  
8 the State Police Commission?

9 A At that point it was impossible to tell  
10 whether we would sell, how many of the bonds we would  
11 sell. I can't tell you today how many bonds we did  
12 sell.

13 Q At that time, typically did you expect the  
14 Raney firm to earn more from selling bonds to  
15 investors than from receiving management fees and  
16 underwritings?

17 A That would be a good general statement,  
18 yes.

19 Q Did the Raney, Hutton and Lasater firms  
20 allocate the bonds equally among themselves in the  
21 Arkansas State Police Commission bond underwriting?

22 A No. As I mentioned before, we had a

1 syndicate, other firms, Wall Street firms selling  
2 bonds in addition to the three managers. In  
3 reviewing the files, I saw that Lasater sold I  
4 believe 3-1/2 million of the bonds for New York  
5 delivery out of the total 29 million. I really don't  
6 know how many bonds we sold.

7 Q Were the underwritings of bonds for the  
8 AHDA and ADFA firm commitment underwritings?

9 A Some were. Most were not. Most were  
10 negotiated financings.

11 Q When Mr. Surguine spoke to you in the fall  
12 of 1984 regarding the communication system for the  
13 Arkansas State Police, was it your impression that  
14 the possibility that there might be a financing  
15 opportunity related to the state police communication  
16 system was confidential information of any sort?

17 A No.

18 Q Was it your impression that other firms  
19 might also be aware of the opportunity for a  
20 financing?

21 A Yes.

22 Q When did you learn that the State Police

1 Commission was reviewing or considering alternative  
2 financing mechanisms for a new communications system?

3 A I probably heard that from Paul Young, my  
4 staff anchor, who was working on it. There was a  
5 period of time there, as I testified before, when we  
6 were talking to Sam Bratton in the Governor's office,  
7 where they were trying to decide which financing  
8 alternative would be best. And I guess somewhere in  
9 all of that it became clear to me that they were  
10 considering that.

11 Q Had you learned that by October 1, 1984?

12 A I'm not sure, because -- when I look back,  
13 I just look in my files, I think our first meeting  
14 was in November. I may have learned about it  
15 sometime in October. I'm just not sure.

16 Q Did you have an impression in the fall of  
17 1984 that financing the purchase of the new  
18 communication system would be more advantageous to  
19 the state of Arkansas than a cash purchase of the  
20 system?

21 A I'm sorry. Would you repeat the question.

22 Q Did you have an impression in the fall of



1 1984 that it would be advantageous to the state of  
2 Arkansas to finance the acquisition of a new  
3 communications system for the state police rather  
4 than to purchase such a system for cash out right?

5 A That would be my impression at the time; it  
6 would be more advantageous to finance than to pay as  
7 you go.

8 Q Why did you form that impression?

9 A Well, it is just -- my impression would be  
10 based on the idea that it is more efficient to  
11 finance a house than it is to build one one room at a  
12 time. If you have a system that you need -- and  
13 there was a need in the state of Arkansas for a  
14 police communication system.

15 Our system was I think built in the 1940s.  
16 A trooper had been shot a couple years before because  
17 there was not an adequate police communication system  
18 in place. We needed it then rather than to build it  
19 over time.

20 Q Did the state police seek input from  
21 investment firms regarding financing a new  
22 communications system prior to the enactment of

1 legislation authorizing the bond issue?

2 A I don't know that they did, but they were  
3 open to our input, and we assumed they were talking  
4 to others. So I guess the answer to that would be  
5 yes.

6 MR. O'CALLAGHAN: But you don't know;  
7 right?

8 THE WITNESS: No.

9 BY MR. FEUER:

10 Q Did Stephens, Inc. make a proposal to the  
11 state police regarding financing of a new  
12 communication system prior to the enactment of  
13 legislation authorizing the bond issue?

14 A I'm not sure I know the date of the  
15 enactment of the legislation. Was that in the  
16 spring?

17 Q A copy of Act 817 that has been produced to  
18 this committee bears a notation, "Approved by  
19 Governor Bill Clinton April 4, 1985."

20 A Then the answer would be yes.

21 Q The answer would be yes, that Stephens,  
22 Inc. did contact the State Police Commission



1 regarding the financing --

2 A That's my assumption, because they were  
3 among the eight proposals submitted and they were one  
4 of the four firms that made the oral presentation.

5 Q Did Stephens, Inc. make a proposal to the  
6 State Police Commission in March of 1985?

7 A I don't know.

8 Q I'm going to show you a document that bears  
9 numbers DKSX 017803 through 17811 and ask whether  
10 this refreshes your recollection as to whether  
11 Stephens, Inc. made a proposal to the Arkansas State  
12 Police prior to the enactment of legislation.

13 MR. STRASSER: He hasn't said he has a  
14 failure of recollection. But he will be happy to  
15 read this.

16 (Witness examined the document.)

17 THE WITNESS: I have not seen this  
18 proposal. This could be fun.

19 MR. STRASSER: Take your time and read it.

20 THE WITNESS: What is the question again?

21 BY MR. FEUER:

22 Q I'm not going to ask you any questions

1 about their proposal. I won't deny you the pleasure  
2 of looking at it if you would like.

3 My question was whether you have knowledge  
4 that Stephens, Inc. made a proposal to the Arkansas  
5 State Police Commission regarding financing of a new  
6 communication system prior to the enactment of  
7 legislation authorizing that?

8 A I guess I would say the date was in April  
9 and this was dated March, that a logical person would  
10 conclude that they submitted this beforehand.

11 MR. O'CALLAGHAN: You are assuming --

12 MR. STRASSER: Is this the same --

13 THE WITNESS: It looks like they have the  
14 same problems as we do.

15 MR. STRASSER: I was referring to a typo.

16 MR. O'CALLAGHAN: The basis of your answer  
17 is based solely on this document that was just handed  
18 to you; right?

19 THE WITNESS: Right, pretty much. I mean,  
20 I knew they were interested in the deal because we  
21 called them first to try to be partners with them and  
22 they turned us down.

1 BY MR. FEUER:

2 Q Are you familiar with the Arkansas State  
3 Purchasing Office?

4 A Am I familiar? No.

5 Q Do you know what the Arkansas State  
6 Purchasing Office is?

7 A I could probably conclude that they were  
8 for purchasing for the state, but I have had no  
9 involvement with them.

10 Q Were you familiar in 1985 with a gentleman  
11 named Mr. Erxleben?

12 A I have heard that name, but I couldn't tell  
13 you what he did.

14 Q Did you hear that name in connection with  
15 the bond underwriting for the Arkansas State Police  
16 Commission?

17 A That's possible, but I really don't know.

18 Q Was it your impression that Arkansas state  
19 government officials, other than the members of the  
20 State Police Commission, played a role in the  
21 selection of underwriters for the bond issue?

22 A Not that I know of.

1 Q Did the members of the State Police  
2 Commission seek out the expertise of other Arkansas  
3 state government officials in considering the  
4 proposals?

5 A They could have. I don't know that.

6 Q When you made an oral presentation to the  
7 State Police Commission regarding the Raney, Hutton,  
8 Lasater proposal, were you or other representatives  
9 of the Raney, Hutton, Lasater group asked questions  
10 about how your proposal compared with other  
11 proposals?

12 A Were we asked questions about how our  
13 proposal compared to others? I'm trying to  
14 remember. We must have known that, because I  
15 remember one of our exhibits had to do with comparing  
16 our proposal to their proposal. So, I guess the  
17 answer would be yes.

18 Q Did you have the impression that the  
19 members of the commission were comparing your  
20 proposal to the other proposals?

21 A Yes.

22 Q Did you form an impression as to whether

1 the representatives of underwriting firms other than  
2 Raney, Hutton and Lasater who were present at that  
3 meeting believed that they stood a chance of being  
4 awarded the bond underwriting contract?

5 A Do I think that the other firms competing  
6 for the business thought that they had a chance of  
7 being hired? Yes.

8 Q Was that based on comments that they made  
9 during that meeting?

10 A Well, I guess I would say that they  
11 obviously thought they had a chance of getting  
12 hired. They were there and were presenting their  
13 credentials.

14 Q Did you think they stood a chance of  
15 getting hired?

16 A Oh, absolutely, absolutely.

17 Q Did the participation of the -- did the  
18 joint participation of the Raney, Hutton and Lasater  
19 firms make their joint proposal an attractive one, in  
20 your mind?

21 A Was our proposal attractive? Yes.

22 Q Was your proposal attractive in part

1 because it involved the participation of the three  
2 investment firms?

3 A I think that had something to do with it,  
4 that we had two local firms and one national firm,  
5 yes.

6 Q And would the presence of two local firms  
7 and one national firm provide for an effective  
8 distribution of the securities to be underwritten?

9 A Yes. We felt like we had the strongest  
10 distribution team, clearly. We had as many salesmen  
11 as Stephens did, and Lasater had a room full of them,  
12 and Hutton was Hutton.

13 Q Was Hutton one of the largest -- did the  
14 Hutton firm have one of the largest brokerage firms  
15 in the country at that time?

16 A Easily, yes.

17 Q Were you aware of any suggestion in 1985  
18 that the state fund the acquisition of a new  
19 communication system for the state police by  
20 borrowing money from the state employees' retirement  
21 system?

22 A I was not aware of that.



1 Q What was the relationship between  
2 Mr. Benham and the Friday firm and Stephens, Inc.?

3 A Stephens had a relationship with the Friday  
4 firm in this financing. One of the partners of the  
5 Friday firm was Paul Benham. His father was Paul  
6 Benham, Sr., who was I believe chairman of the  
7 legislative audit committee.

8 Stanley Russ, who was a banker for  
9 Stephens, who was also in the room that day, had a  
10 father, Stanley Russ, Sr., who was also a member of  
11 the legislative audit committee.

12 Q Who was his son?

13 A Stan Russ, Jr.

14 Q Who was he?

15 A He worked for Stephens.

16 Q Is the Friday firm a law firm in Little  
17 Rock?

18 A Correct.

19 Q Prior to 1983, was E.F. Hutton the lead  
20 underwriter for single-family bond issues for the  
21 AHDA?

22 A Correct.

1 Q Did the AHDA become dissatisfied with E.F.  
2 Hutton's performance as lead underwriter for those  
3 bond issues?

4 A I think it was more a case that ours is an  
5 idea-driven business. The state police financing was  
6 an idea. PaineWebber had a better idea than E.F.  
7 Hutton, and that's why they took over the managership  
8 of the single-family program. They came in with a  
9 structure that worked.

10 Q Was the program not working under the  
11 structure developed by E.F. Hutton?

12 A Well, I think there had just been a period  
13 of time when because of high rates in Arkansas, we  
14 were not able to launch a successful program under  
15 E.F. Hutton's lead. At one particular month, at an  
16 ADFA board meeting, PaineWebber showed up, they had  
17 an idea, they got hired, boom, it was done.

18 Q Had E.F. Hutton previously tried and failed  
19 to develop an idea that would make the program work?

20 A I think they were really trying hard to  
21 figure out how to make it work during that time.

22 Q Following the designation of PaineWebber by



1 AHDA as lead underwriter for single-family mortgage  
2 bond issues, did the number of underwriters for those  
3 bond issues increase?

4 A Yes, that was the case.

5 Q Did you have an impression at that time as  
6 to why the AHDA had expanded the number of  
7 underwriters in its bond issues?

8 A Did I have an impression as to why they did  
9 that? I'm sure I did at the time, but I know it was  
10 just announced that they were expanding the team,  
11 this is the local team, these are the folks involved,  
12 fait accompli.

13 Q Did expanding the number of underwriters  
14 increase the competition to sell the bonds  
15 underwritten?

16 A I think that is true, yes.

17 Q And would that competition allow the AHDA  
18 to borrow money more cheaply?

19 A I think that's probably a true statement  
20 for this reason, that to the extent that the local  
21 firms sold more of the bonds, that meant more of the  
22 bonds would go to retail rather than institutional.

1 Retail bonds, as a general statement, can  
2 be sold at lower rates than the institutions who sort  
3 of dictate terms. So the greater the local  
4 distribution, and that means to Arkansas individuals,  
5 banks, et cetera, the impact on the borrowing rate is  
6 significant.

7 Q When Mr. Drake worked at Stephens, Inc.,  
8 did he work in the public finance area?

9 A I think he worked in corporate finance.

10 Q During the period 1983 to 1984, did the  
11 Raney firm and the Lasater firm both participate as  
12 underwriters of AHDA and ADFA bonds?

13 A I think that's correct.

14 Q Did T.J. Raney underwrite just as many  
15 bonds in that time period as did the Lasater firm?

16 A Probably more, I would think.

17 Q Was it your impression that the Lasater  
18 firm was getting more bond business than was the  
19 Raney firm?

20 A No.

21 Q With respect to a bond underwriting, what  
22 is an official statement?

1 A A final official statement is an offering  
2 document furnished to customers in which they are  
3 informed of the structure, the credit, the details of  
4 the bond financing.

5 Q Are official statements publicly available  
6 to investors?

7 A Yes.

8 Q Do official statements provide information  
9 regarding the identity of the bond underwriters and  
10 the contractual relationships between the  
11 underwriters and the issuer?

12 A Yes.

13 Q Were the bonds issued by the AHDA and ADFA  
14 accompanied by official statements?

15 A Yes.

16 Q Was that the case for the bonds issued by  
17 the Arkansas State Police Commission as well?

18 A Yes.

19 Q What are rating agencies?

20 A Rating agencies, Standard & Poor's and  
21 Moody's, located in New York, review the credit of  
22 issuers of bonds and assigned a rating system to give

1 the buying public an idea of the ability of the  
2 issuer to repay the debt.

3 Q Do the rating agencies typically look at  
4 the identity of bond underwriters and the contractual  
5 relationships between bond underwriters and bond  
6 issuers when they prepare ratings for bonds?

7 A I don't think that is a factor in the  
8 credit of an issuer.

9 Q Have any of the bonds issued by the AHDA or  
10 ADFA gone into default?

11 A No, they have not gone into default.

12 Q Have the bonds issued by the Arkansas State  
13 Police Commission gone into default?

14 A No.

15 MR. FEUER: I don't have any more questions  
16 at this time.

17 MR. O'CALLAGHAN: I have a couple quick  
18 follow-ups. I will try to make it as quick as  
19 possible. I will work my way backwards through the  
20 questions Mr. Feuer just asked you.

21 EXAMINATION

22 BY MR. O'CALLAGHAN:

1 Q He asked you if any of the AHDA, ADFA bonds  
2 had gone into default. Specifically during the  
3 period 1983 through '86, do you know if the bonds had  
4 any other problems other than going into default?

5 A One of the programs of ADFA was a  
6 guaranteed program that guaranteed industrial  
7 development bonds.

8 There were a couple situations there where  
9 companies financed through ADFA for industrial  
10 development bonds got behind in their payments and  
11 ADFA had to actually come good on their guarantee.

12 When that happened I'm not sure, to tell  
13 you the truth, but it was probably sometime in the  
14 '80s.

15 MR. FEUER: Do you know who underwrote  
16 those bonds?

17 THE WITNESS: No, I don't.

18 BY MR. O'CALLAGHAN:

19 Q Do you know what companies were involved?

20 A I think it was one of those competitive  
21 deals that they had a lot of projects together and  
22 had a series of bonds for different projects. They

1 really financed quite a number of small companies in  
2 Arkansas.

3 I think on those particular deals, ADFA had  
4 an RFP process to select their banking team.  
5 Sometimes we were in the deal and sometimes we  
6 weren't. It had nothing to do with the bankers or  
7 ADFA or anything.

8 Q Do you recall the name of the companies who  
9 received the financing who had problems with the  
10 payments?

11 MR. FEUER: Unless the bonds were  
12 underwritten by Lasater & Company, I'm not sure that  
13 the identity of the company is relevant.

14 THE WITNESS: I don't recall. I really  
15 don't. I don't remember the name of the companies.  
16 I don't remember the name of the underwriters. I do  
17 recall that there were one or two instances that ADFA  
18 will tell you that they had to make good on the  
19 guarantee.

20 BY MR. O'CALLAGHAN:

21 Q Did they put out RFPs for the single-family  
22 multihousing offerings?

1 A Do they now?

2 Q Did they then.

3 A I know they did on the multifamily.

4 Q Those are requests for proposals; is that  
5 right?

6 A Right.

7 Q Do you know any other type of offer they  
8 put RFPs out?

9 A They do on everything now.

10 Q During the period 1983 through 1986, who  
11 had a better underwriting capability; would you say  
12 it was T.J. Raney or would Lasater & Company have a  
13 greater capability?

14 A T.J. Raney.

15 Q Where would Lasater & Company rank, just  
16 the best you can, with George K. Baum, Stephens and  
17 T.J. Raney?

18 A Based on the number of salesmen they had,  
19 probably above Baum and below Raney.

20 Q Would you also factor in that the number of  
21 people they had actually doing the underwriting --  
22 you said Lasater had Michael Drake; is that right?

1 A I'm going on number of salesmen at the  
2 desk.

3 Q How many people do they have in comparison  
4 to other people involved in the underwriting?

5 A In doing the underwriting? George K. Baum  
6 had one guy. Lasater just had one guy, Michael  
7 Drake.

8 MR. FEUER: Did T.J. Raney have anyone  
9 other than you and Mr. Young?

10 THE WITNESS: We had a staff of around five  
11 or six or seven bankers. We had a total in the  
12 public finance department around 13, the same size as  
13 Stephens had.

14 BY MR. O'CALLAGHAN:

15 Q During 1983-1986, do you recall what  
16 percentage or do you have an idea what percentage of  
17 the bonds were sold to retail customers versus  
18 institutional customers?

19 A On which particular debt?

20 Q Was there a general trend?

21 A It would be awfully hard to generalize  
22 about that.



1 Q We were talking earlier how for the police  
2 radio deal, you felt you had the strongest  
3 distribution team. But you also identified earlier  
4 that one of the reasons why you got together with  
5 Lasater & Company was because you believed they had  
6 already begun working on the deal; is that correct?

7 A Yes.

8 Q Was part of the reason you brought Lasater  
9 & Company on due to their political connections?

10 A Well, I really think it was Hutton's strong  
11 suggestion that we include Lasater in the financing.  
12 I think that was the reason we did it. I don't think  
13 we were impressed with their political connections.

14 Q Hutton was the main impetus for putting  
15 them on?

16 A Yes.

17 Q Who at Hutton?

18 A Steve Claiborne.

19 Q Do you know where he works now?

20 A In Houston.

21 Q Who did he express that to, if you recall?

22 A Would you repeat the question.

1 Q Who did he tell that they wanted to have  
2 Lasater & Company, you?

3 A Yes.

4 Q Mr. Feuer asked you earlier whether you  
5 thought that the other firms who were competing for  
6 the state radio underwriting thought they had a  
7 chance to get the contract and you said yes.

8 A Yes.

9 Q Did anyone at Lasater & Company tell you  
10 that they thought that getting the contract was a  
11 done deal or automatic or anything like that?

12 A No.

13 Q And I think you said with your  
14 presentation, one of the exhibits had to do with  
15 comparing your proposal to other proposals.

16 A Uh-huh.

17 Q Was that during the oral presentation?

18 A Yes.

19 Q Did other firms have access to other firm's  
20 proposals?

21 A Must have.

22 Q Do you know specifically if other firms --

1 A I don't know. Typically in presentations  
2 like this, once the proposal is laid on the table, it  
3 is a public record.

4 Q Were other firms allowed to observe the  
5 oral presentations of the different firms competing?

6 A I think that it is typical in our business  
7 that you step out while your competition is making  
8 their presentation. I remember standing in the hall,  
9 so I know we were out during everybody else's.

10 Q But it is public for everybody else?

11 A Yes.

12 Q That's my understanding of it.

13 We were talking about the police  
14 underwriting and discussing how the bonds are  
15 allocated to the three different firms. I think you  
16 said you believed that Lasater & Company sold around  
17 3.5 million for New York delivery.

18 A Right.

19 Q What does "for New York delivery" mean?

20 A You can either deliver the bonds in  
21 New York for institutional pickup or in Little Rock  
22 for local or retail sales. Just in reviewing my

1 records on this deal, I saw a sheet that showed that  
2 Lasater had 3-1/2 million bonds in New York on the  
3 day of closing, compared to Hutton had over 7 million  
4 delivered in New York.

5 There were a list of other firms in the  
6 syndicate that had about 19 million of the 29 million  
7 bonds were delivered in New York.

8 Q Did Lasater & Company deliver any firms  
9 locally?

10 A I assume they did, I just don't have a  
11 record that would reflect that.

12 Q I think I said firms. I meant bonds.

13 A Yes.

14 Q You said that Mr. -- is Mr. Young at Morgan  
15 Keegan?

16 A Yes.

17 MR. O'CALLAGHAN: I have no further  
18 questions at this time.

19 Any statements you would like to make?

20 MR. STRASSER: Can we have a voucher to get  
21 our expenses reimbursed?

22 (Discussion off the record.)

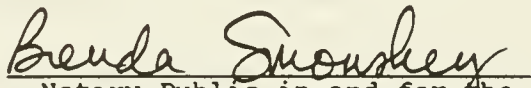
1 (Whereupon, at 3:35 p.m., the deposition  
2 was concluded.)  
3

4 -----  
5 ROBERT L. SNIDER  
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996



**DEPOSITION OF ROBERT SHULTS  
IN RE: S. RES. 120**

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**THURSDAY, FEBRUARY 8, 1996**

**U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
Washington, DC.**

Telephone deposition of ROBERT SHULTS, called for examination pursuant to notice of deposition, at 3:05 p.m. in Room 534 of the Dirksen Senate Office Building, before DAVID L. HOFFMAN, a Notary Public within and for the District of Columbia, when were present:

**LOUIS J. GICALE, Esq.  
Majority Deputy Special Counsel  
MARK J. BRENNER, Esq.  
Majority Assistant Special Counsel  
LANCE COLE, Esq.  
Minority Deputy Special Counsel  
STEVEN H. FROMEWICK, Esq.  
Minority Assistant Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.**

**ALSO PRESENT: STEVEN SHULTS (by telephone)**

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## P R O C E E D I N G S

(3:05 p.m.)

Whereupon,

ROBERT SHULTS

was called as a witness herein, and having been first duly sworn, was examined and testified as follows:

MR. BRENNER: Mr. Shults, this is a deposition conducted pursuant to Senate Resolution 120. I believe you have a copy of Senate Resolution 120.

MR. SHULTS: I'm sorry, Mr. Brenner, I do not have a copy of that Resolution. I've never seen one.

MR. BRENNER: I'm sorry, it was my understanding that we had sent you a copy when we requested documents from you.

MR. SHULTS: I don't believe that's so, but I could be wrong. Hold on just a minute and I'll look at see.

(Pause.)

MR. SHULTS: I don't find in my file that I have ever received such a document, but I don't

4

know that that's of any importance.

MR. BRENNER: We could fax you a copy if you wish.

MR. SHULTS: You can do that after we finish the deposition. That would be fine.

MR. BRENNER: Do you consent to be sworn over the phone?

MR. SHULTS: I certainly will.

Whereupon,

ROBERT SHULTS

was called as a witness herein, and having been first duly sworn, was examined and testified as follows:

THE WITNESS: I would like to make a request before beginning this deposition. I would appreciate receiving a copy when it is transcribed.

MR. BRENNER: We will be receiving a copy of the transcript and we'll be asking you to sign a consent not to disclose the deposition to anyone other than your attorney.

THE WITNESS: I don't believe I will sign such a consent. I think that's too limiting and I

1 don't want to run the risk of inadvertently doing  
2 something that I've said I wouldn't do, so I'll not  
3 sign anything like that.

4 MR. BRENNER: What we may have you do,  
5 then, is we may have you review the deposition here  
6 in Washington, because it's quite likely that we're  
7 going to call you for public hearings, and we'll  
8 allow you the opportunity to review it in the  
9 presence of somebody from the Committee.

10 THE WITNESS: As I have mentioned to you,  
11 I believe, Mr. Brenner, before, it will be quite  
12 difficult for me to come to Washington, and I would  
13 hope, after you are finished with this deposition,  
14 that you will realize that you have all of the  
15 knowledge that I could possibly contribute to your  
16 inquiry, and that my trip to Washington would be  
17 totally unnecessary.

18 MR. BRENNER: We're just going to go off  
19 the record for a minute.

20 (Discussion off the record.)

21 MR. BRENNER: Let's go back on the record.  
22 Mr. Shults, Mark Brenner.

1 THE WITNESS: I know we've been off the  
2 record, but I hope that someday the comments I've  
3 made which I hope would be conveyed to whomever will  
4 make the ultimate decision will, if not on the  
5 record, at least be accurately conveyed.

6 MR. COLE: Let me just state then, for the  
7 record -- this is Lance Cole, Mr. Shults. What we  
8 discussed off the record, and that was your concern  
9 about having to come here to Washington to appear at  
10 a hearing next week.

11 You outlined for us some health  
12 considerations that bear upon that and we discussed  
13 the fact that we would take your deposition and then  
14 consult as to the Committee's need to have you appear  
15 or perhaps not have you appear here next week. And  
16 we also discussed the possibility of bringing those  
17 health considerations to the attention of the  
18 Chairman and Ranking Member, either through a letter  
19 from your or by ourselves, after we've concluded your  
20 deposition. And we would certainly agree to do that.

21 THE WITNESS: I'm comfortable with that,  
22 Mr. Cole.



1 MR. COLE: Thank you. Why don't we just  
2 proceed with the deposition, then, and try to go  
3 forward.

4 BY MR. BRENNER:

5 Q Mr. Shults, Mark Brenner. I'm going to  
6 run through some of the preliminaries. Senate  
7 Resolution 120 establishes a Special Committee  
8 administered by the Banking Committee to conduct an  
9 investigation involving Whitewater Development  
10 Corporation, Madison Guaranty Savings & Loan  
11 Association, Capital Management Services, Inc., the  
12 Arkansas Development Finance Authority, and other  
13 related matters.

14 Section 1(b)(3)(a) of Senate Resolution  
15 120 authorizes investigation and public hearings into  
16 the operation, solvency and regulation of Madison  
17 Guaranty Savings & Loan, and any subsidiary,  
18 affiliate or other entity owned or controlled by  
19 Madison Guaranty.

20 Additionally, Section 1(b)(3)(e) allows  
21 the Committee to look into the sources of funding and  
22 the lending practices of Capital Management Services,

1 Incorporated. This is a deposition in advance of  
2 public hearings anticipated to occur later this  
3 month. And as we stated off the record, you may be  
4 called to testify at the hearings.

5 I'm going to be asking you a series of  
6 questions. I'm going to ask you to testify under  
7 oath. If you don't understand a question, let me  
8 know and I'll rephrase it. If you need a break for  
9 any reason, just let me know.

10 The stenographer will prepare a record of  
11 questions and their answers and the deposition will  
12 be treated as Committee confidential until the  
13 commencement of hearings.

14 Prior to the hearings, you will receive a  
15 letter from the Committee if you're called to  
16 testify, telling you that you may come to the Senate  
17 to review the transcript of your deposition and make  
18 note of any corrections for the transcription on an  
19 errata sheet, and we would provide you with a copy of  
20 that deposition.

21 You may be represented by counsel and  
22 objection to the form of questions will be noted for

1 the record. Your counsel or you may object on the  
2 grounds of privilege or relevance, as can counsel for  
3 either the minority or the majority. The Committee  
4 chairman will rule on all objections where the  
5 witness refuses to answer the question.

6 You are already sworn in so I'd ask you to  
7 state your name for the record.

8 A Robert Shults.

10  
11 Q And your present business address?

12 A 200 West Capital Avenue, Suite 1600,  
13 Little Rock, Arkansas 72201.

14 Q Have you spoken with anyone in the last  
15 couple of days, since I called you to notify you of  
16 this deposition, about the deposition?

17 A Yes.

18 Q Who did you speak to?

19 A Well, I've spoken with my law partners in  
20 this office. I've spoken with Mr. Buddy Sutton.

21 Q Who is Buddy Sutton?

22 A One of the attorneys who represents Jim

---

10

1 Guy Tucker in his criminal case.

2 And also with George B. Collins who's an  
3 attorney representing Jim Guy Tucker in the criminal  
4 case, in order to get from them clearance on being  
5 able to testify about what is in my file without  
6 violating the lawyer/client privilege between me and  
7 Jim Guy Tucker.

8 Q What was said to you by Buddy Sutton and  
9 George Collins?

10 A That I could testify about anything that  
11 is in the file without violating the lawyer/client  
12 privilege.

13 Q Was that the complete discussions you've  
14 had?

15 A I think I've told my wife that I was going  
16 to do this. And as far as I know, that's all.

17 Q Have you testified about similar matters,  
18 either orally or in writing?

19 A Nothing like this, no.

20 Q Have you been interviewed by anyone about  
21 any of the matters that we may cover today?

22 A I have not. I have given my entire file,

1 the same entire file I produced for your Committee,  
2 to the Office of Independent Counsel here in Little  
3 Rock on April 12, 1994, pursuant to a Grand Jury  
4 subpoena for my file in connection with this matter.  
5 And there again, I obtained permission from my client  
6 to do that.

7 Q Who exactly was your client?

8 A It was, I would guess, Castle Sewer and  
9 Water as well as Jim Guy Tucker, who was one of the  
10 owners of that company.

11 Q So you were representing both Castle Sewer  
12 and Water and Jim Guy Tucker?

13 A Yes.

14 Q When did you first come to have  
15 discussions about representing Castle Sewer and Water  
16 and Jim Guy Tucker?

17 A I believe it was on July 25, 1986.

18 Q Who did you have discussions with?

19 A I believe my initial discussion was with  
20 Jim Guy Tucker.

21 Q Was that a meeting at your office?

22 A Yes.

1 Q At that point, were you asked to represent  
2 both Castle Sewer and Water and Mr. Tucker, or just  
3 Castle Sewer and Water?

4 A I believe I was asked to represent both of  
5 them. That gets a little uncertain, but that's the  
6 way I interpret it.

7 Q At this initial meeting on July 25th, were  
8 you given details about the underlying purchase of  
9 Castle Sewer and Water?

10 A Yes.

11 Q Was that in the form of documents or in  
12 the form of discussions?

13 A Probably both.

14 Q Do you recall what documents you were  
15 given at that time?

16 A No, because I was given some documents  
17 then, and a number of documents over the period of  
18 time when I was negotiating in regard to the dispute  
19 between Castle Sewer and Water and Madison Guaranty.  
20 And I'm not sure which ones were given to me  
21 initially, or subsequently.

22 Q Did anyone, at the time of the July 25th

1 meeting, or in the next couple of days, the 26th or  
2 the 27th, produce documents to you, other than Mr.  
3 Tucker?

4 A It seems to me that perhaps Sarah Hawkins  
5 or Steve Cuffman, who were then in some sort of  
6 managerial positions at Madison Guaranty may have  
7 given me some documents.

8 Q At that time, you weren't provided any  
9 documents by Mr. Randolph?

10 A I don't think so. Subsequently, I was  
11 provided calculations and documents about Mr.  
12 Randolph, but I don't remember whether that was  
13 around July 25 or later.

14 Q Do you recall from the documents that  
15 you've seen when Castle Sewer and Water was  
16 incorporated?

17 A No, I'm sorry, I do not recall.

18 Q If I tell you that it was incorporated on  
19 December 31, 1985, does that refresh your  
20 recollection?

21 A It does not refresh my recollection, but I  
22 have no reason to dispute that.

1 Q Do you recall ever seeing the papers of  
2 incorporation for Castle Sewer and Water Company?

3 A Not unless they are in that file which I  
4 supplied to you. If they're in there, I probably  
5 saw. If they are not, I didn't.

6 Q In that preliminary stage of your  
7 representation, did you seek information about the  
8 original purchase of Castle Sewer and Water  
9 Corporation by Jim Guy Tucker and R.D. Randolph from  
10 Madison Guaranty?

11 A No. As I recall, the transaction was that  
12 the sewer system was bought by Castle Sewer and Water  
13 Corporation from Madison Guaranty or Madison  
14 Financial.

15 I don't know, as I understand what you're  
16 asking, you're saying that Mr. Tucker and Mr.  
17 Randolph bought it first and then put it into the  
18 corporation.

19 Q No, I misspoke if that was the question.

20 I'm trying to determine, at that  
21 preliminary stage of your representation, whether or  
22 not you were given information about the purchase by



1 Castle Sewer and Water of the sewer system?

2 A Yes, I was.

3 Q What information were you given?

4 A I was given some documents which showed  
5 the agreement that obligated Madison Financial to  
6 provide a certain number of hookups to the sewer and  
7 water system each year. Essentially information that  
8 substantiated what I put in a letter dated July 30,  
9 1986, a letter from me to the Board of Directors of  
10 Madison Guaranty Savings & Loan.

11 In that letter, I state certain things  
12 about the agreement between the parties, and I see  
13 now by looking at the letter, I see a copy of this  
14 had been previously furnished to me by Ms. Sarah  
15 Hawkins, so I guess I got that document from her.

16 But having gotten that document, I was  
17 then told, either by Mr. Tucker or Mr. Randolph, or  
18 both, what the terms of the agreement were.

19 Q Could you repeat the last sentence of that  
20 answer?

21 MR. BRENNER: I'll have the Court Reporter  
22 read back the answer.

1 THE WITNESS: I don't know where it  
2 started.

3 (Readback.)

4 BY MR. BRENNER:

5 Q I'm looking at a copy of your July 30,  
6 1986 letter to the Board of Directors of Madison  
7 Guaranty that starts:

8 Ladies and gentlemen: We are writing you  
9 on behalf of Castle Sewer and Water Corporation.

10 A Yes, I have that.

11 Q This is a three-page letter?

12 A Yes.

13 Q I just wanted to make sure I had the right  
14 one.

15 MR. COLE: Why don't we note for the  
16 record that these documents aren't Bates numbered so  
17 therefore it's not possible for us to refer to them  
18 by number. And what we'll try to do for the record  
19 is describe each document sufficiently so that it's  
20 clearly identified, as I think Mr. Brenner has done  
21 in this case.

22 BY MR. BRENNER:

1 Q In the letter, you talk about the key  
2 elements of the agreement. The first one is that  
3 Madison would guarantee 110 hookups each 12 months  
4 for three years at \$500 per hookup.

5 Is that correct?

6 A Yes, sir.

7 Q Do you recall discussing with Jim Guy  
8 Tucker that portion of the agreement?

9 A I'm sure that I did.

10 Q Do you recall what was said to you or what  
11 was said about this portion of the agreement?

12 A Only that that was an essential part of  
13 the contract between the parties.

14 Q Was that contract an oral contract?

15 A I don't think so. I'm putting my hands on  
16 the agreement furnished to me by Ms. Hawkins, but I  
17 believe it was written.

18 Q There's a letter written July 29, 1986 on  
19 Jim Guy Tucker's stationery where you are cc'd with  
20 enclosure.

21 And the letter reads -- and I'll then give  
22 you a minute to find it -- it's addressed to Sarah

1 Hawkins.

2 Dear Sarah, enclosed is a copy of the  
3 contract negotiated between Castle Sewer and Water  
4 Corporation and Jim McDougal. Our independent  
5 counsel in this matter is Robert Shults in the  
6 Worthen Bank Building. He will be writing to Madison  
7 later this week to begin explanation of ways to  
8 settle this matter.

9 A I have not found that letter but I'm sure  
10 it's somewhere here in this file.

11 Q We'll give you a minute.

12 (Pause.)

13 Q I believe it's toward the back of the file  
14 that you produced to us, if your file is in a  
15 similar order as ours. It's probably about 75.

16 MR. GICALE: Off the record.

17 (Discussion off the record.)

18 MR. BRENNER: Can we go back on the  
19 record, please?

20 THE WITNESS: Yes, I see it.

21 BY MR. BRENNER:

22 Q Do you have the enclosure as well as the

1 letter?

2 A Yes, I do, although the enclosure I have  
3 does not appear to be signed.

4 Q The enclosure I have doesn't appear to be  
5 signed either.

6 A That must be the same one.

7 Q That was going to be my question do you.  
8 Have you ever seen a signed copy of this agreement?

9 A I do not know.

10 Q Well, did Mr. Tucker produce to you, to  
11 the best of your recollection, a signed copy of this  
12 agreement?

13 A I do not know. But if there is not a  
14 signed copy in the file, which you have, that I sent  
15 to you, then I have never had a signed copy because I  
16 sent to you everything that's in my file.

17 Q Do you recall Mr. Tucker ever telling you  
18 he had a signed copy of any agreement which would  
19 require Madison Guaranty to provide hook-ups to the  
20 Castle Sewer and Water Utility System?

21 A I do not recall.

22 Q You don't recall seeing one, or you don't

1 recall Mr. Tucker showing you one?

2 A I do not recall seeing one or him showing  
3 me one.

4 Q Now in your July 30th letter, you mention  
5 a number of key elements to the negotiation between  
6 Castle Sewer and Water and Madison, and you stated  
7 that you had received a copy of the agreement that  
8 had been previously furnished to Ms. Hawkins, but you  
9 had received your copy of the agreement from Jim Guy  
10 Tucker.

11 Is that correct?

12 A I believe I say in that letter that I  
13 received it from Ms. Hawkins. There may be another  
14 one in this file. I think I got the agreement that I  
15 referred to in my letter to the Board of Madison  
16 Guaranty from Sarah Hawkins.

17 Q Because you say in your July 30th letter,  
18 the second paragraph, last sentence, right before  
19 "key elements," that a copy of this agreement has  
20 previously been furnished to Ms. Sarah Hawkins.

21 A Oh, that's right. That's probably the  
22 agreement that accompanied Jim Guy Tucker's letter.



1 Q And so you probably didn't receive from  
2 Ms. Hawkins a copy of the agreement?

3 A I believe you're correct.

4 Q You probably received it from Mr. Tucker?

5 A Yes.

6 Q Was that the first document you received  
7 from Mr. Tucker on this matter?

8 A I cannot be sure it was the first one. It  
9 was certainly one of the earlier ones.

10 Q I'm curious to find out if you received  
11 copies at the early stages of your negotiation of any  
12 of the documents from February of 1986 between  
13 Madison Guaranty, Madison Financial Corp. and Jim Guy  
14 Tucker, or Castle Sewer and Water?

15 A I don't recall any such documents. And if  
16 they are not in this file that I've produced, I did  
17 not receive them.

18 Q In terms of starting the negotiations with  
19 Madison, what documents, other than the agreement,  
20 were you using to get a complete understanding of the  
21 transaction between Madison Financial and Castle  
22 Sewer and Water?

1 A I'm not sure that I reviewed any other  
2 documents because after I wrote my letter of July 30,  
3 1986, and began discussions with Sarah Hawkins and  
4 Steve Cuffman, no on on behalf of Madison Guaranty  
5 ever disputed the terms of the agreement.

6 Q So no one from Madison Guaranty asked you  
7 to provide a copy of a signed agreement whereby  
8 Madison would guarantee 110 hookups each 12 months  
9 for three years?

10 A I don't know that anybody from Madison  
11 ever did ask me to do that. No, I don't know.

12 Q Did anybody from Madison ever call into  
13 question the assertion that Castle Sewer and Water  
14 had made an agreement that would guarantee 110  
15 hookups each 12 months for three years.

16 MR. COLE: You mean Madison Financial?

17 MR. BRENNER: Madison Financial.

18 THE WITNESS: Neither from Madison  
19 Financial or Madison Guaranty. No one ever disputed  
20 the terms that were set out in my letter of July 30,  
21 1986.

22 MR. COLE: So if I'm understanding you



1 correctly, Mr. Shults, no one at Madison Guaranty,  
2 including Mr. Cuffman or Ms. Hawkins, ever denied or  
3 disputed that Mr. McDougal, on behalf of Madison  
4 Guaranty or Madison Financial had entered into this  
5 agreement with Castle Sewer and Water.

6 Is that correct?

7 THE WITNESS: That is correct. I think  
8 they acknowledged from the beginning that such an  
9 agreement had been entered into.

10 BY MR. BRENNER:

11 Q How did they acknowledge that?

12 A In their discussions with me, in talking  
13 about a resolution of the problem.

14 Q How in particular did they acknowledge the  
15 requirement of the 110 hookups?

16 A Well, I don't know specifically except to  
17 say that they acknowledged early on that that was an  
18 essential part of the agreement between the parties.

19 Q I guess my question is then, at the end of  
20 the first page of this July 30 letter, you say we  
21 need only complete detail editing of the written  
22 contact, and each party will be bound by this

1 agreement.

2 Do you see that?

3 A Is that of the agreement? Where is that?

4 Q It's the last sentence on the first page  
5 of your July 30, 1986 letter?

6 A Yes, I see that.

7 Q You didn't sign this agreement?

8 A Excuse me?

9 Q Madison Financial didn't sign this  
10 agreement, did they?

11 A No. Not in my presence.

12 Whether they signed it earlier is the  
13 matter you're inquiring about, and I can't testify to  
14 that.

15 Q You stated you were unable to determine if  
16 they had done that earlier?

17 A Right.

18 Q But it would appear that they didn't do so  
19 subsequent to your representation of Castle, did  
20 they?

21 A They did not.

22 Q If they didn't do it subsequent to your

1 representation, the only time they could have done it  
2 was before your representation, is that correct?

3 A I would think so.

4 Q But if they did it before your  
5 representation, there'd be no need for your  
6 representation, would there?

7 A What representation? You mean  
8 representation of Castle Sewer?

9 Q That's correct.

10 A I'm not understanding your question. I'm  
11 sorry.

12 MR. COLE: Could I ask a clarifying  
13 background question, Mr. Brenner, just for our record  
14 here?

15 MR. BRENNER: Can we go off the record for  
16 a minute?

17 (Discussion off the record.)

18 MR. BRENNER: Can we go back on the  
19 record, please?

20 MR. COLE: Could you hear all of that, Mr.  
21 Shults?

22 THE WITNESS: I'm sorry, I heard none of

---

1 it.

2 MR. COLE: I'm sorry, we didn't mean to  
3 exclude you.

4 THE WITNESS: That's all right. It was in  
5 the background and I did not hear you.

6 MR. COLE: The clarifying question that I  
7 wanted to ask, in light of Mr. Brenner's questions to  
8 you about the negotiations with representatives of  
9 Madison Guaranty and Madison Financial was your  
10 understanding at the time that you undertook your  
11 representation, which I believe you've testified was  
12 July 25, 1986, whether Mr. McDougal had recently been  
13 removed by Federal Regulators and therefore was  
14 unavailable to participate in discussions regarding  
15 this matter, if you have any knowledge?

16 THE WITNESS: I think that that is  
17 correct. I have never met Mr. McDougal and I've  
18 never talked with Mr. McDougal, so I believe that I  
19 was told that the people I should deal with were  
20 Sarah Hawkins and Steve Cuffman initially.

21 At some point as you know, from the  
22 correspondence, Jeff Stern, a lawyer from Washington,

1 representing the Federal Savings & Loan Insurance  
2 Corporation because involved and thereafter I think  
3 my dealings were primarily with him.

4 MR. COLE: So essentially you were in the  
5 position of coming in and dealing with new management  
6 with regard to a matter that had been previously  
7 conducted by old management, that being Mr. McDougal?

8 THE WITNESS: I believe that's correct.

9 MR. COLE: I didn't mean to interrupt, Mr.  
10 Brenner. I just thought that would be helpful to put  
11 this in context.

12 MR. BRENNER: Thank you.

13 BY MR. BRENNER:

14 Q I wanted to get back to what is at the  
15 core of your representation of Castle Sewer and  
16 Water, that is, working out the agreement.

17 A All right.

18 Q You stated that nobody disputed that there  
19 were 110 hookups guaranteed each year for three  
20 years. Is that correct?

21 A Yes.

22 Q But you can't point to a signed contract

1 between Madison Financial and Castle Sewer and Water  
2 on that issue, can you?

3 A I cannot.

4 Q And you stated that no such contract had  
5 been entered into with such a guarantee for 110  
6 hookups after your representation began, correct?

7 A Yes.

8 Q My question, then, was if this was not a  
9 disputed issue for Madison, what was the whole  
10 purpose of your representation?

11 A Either to get the contract as outlined in  
12 my letter of July 30 rescinded or reformed. And on  
13 the second page of that letter, I think I set out  
14 options which I was seeking to have entered into.

15 Q But if there was a contractual agreement  
16 already in place, you wouldn't need reaffirmation or  
17 rescission?

18 A Well, as I understand it and understood it  
19 at the time, there was an agreement. Whether or not  
20 it was signed in writing, I think that it was clearly  
21 understood between the parties and that agreement  
22 either signed in writing or orally was to be

1 rescinded and the money that Castle Sewer and Water  
2 had paid to Madison would be refunded, and all of the  
3 property would be returned to Madison. That was one  
4 alternative.

5 Q When you say that was an agreement between  
6 the parties, you're referring to an agreement between  
7 the previous management, Jim McDougal, and Castle  
8 Sewer and Water, and not the management as of  
9 July 30, 1986?

10 A Yes.

11 Q And you stated that it was your  
12 understanding that this was an oral contract or you  
13 didn't know?

14 A I do not know. I had seen the written  
15 copy which we earlier referred to. But as you  
16 pointed out, it wasn't executed. But I believe it  
17 reflected, if there was not an executed agreement, I  
18 believe that it reflected what the parties had in  
19 fact agreed to.

20 Q At this preliminary stage, as you were  
21 preparing this letter, you mentioned rescission on page  
22 two and that is Castle Sewer and Water will convey

1 back to Madison the property. Madison will convey  
2 back to Castle Sewer -- and I believe it's a typo --  
3 it says CS&L, the \$150,000 downpayment and interest  
4 paid to date.

5 Do you see that?

6 A Yes.

7 Q Is that supposed to be a CS&W?

8 A It is.

9 Q The \$150,000 downpayment, do you know  
10 where that money came from?

11 A I do not.

12 Q Did Mr. Tucker tell you where that money  
13 came from?

14 A I don't believe he did.

15 Q Have you subsequently come to learn that  
16 that money came from an SSBIC owned by David Hale,  
17 known as Capital Management?

18 A I've learned that within the past year in  
19 connection with publicity in our local newspaper  
20 relating to the indictment of Jim Guy Tucker. So  
21 that I now know that, but I did not at any time when  
22 we were dealing with this problem.



1 Q So at no point in time did you see any  
2 correspondence between Jim Guy Tucker and David Hale  
3 about a loan request for Castle Sewer and Water  
4 Corporation?

5 A Yes. I saw such a document. I think it  
6 was given to me early on by Jim Guy Tucker. I don't  
7 know whether the loan was ever made or not. The  
8 purpose of him giving it to me was that there was a  
9 reference somewhere in that document about the  
10 obligation of Madison Financial Corporation to  
11 guarantee certain things in connection with the  
12 operation of Castle Sewer and Water. I saw that  
13 document. But frankly, I don't know whether, I did  
14 not know at the time whether that loan was made or  
15 not. I think that document was just sent to me with  
16 a check at the point where there was discussion about  
17 the obligations of Madison Financial Corporation.

18 MR. COLE: So if you have the document in  
19 front of you, Mr. Shults, are you referring to, on  
20 the first page of the document that's headed "Loan  
21 Application"?

22 THE WITNESS: Yes. At the bottom, there

1 is something about company assets.

2 MR. COLE: Yes.

3 THE WITNESS: There's a checkmark by it  
4 which I guess was made by probably Mr. Tucker when he  
5 sent this over to me.

6 BY MR. BRENNER:

7 Q This says that in addition, MFC is  
8 contracted to guarantee \$55,000 per year in hookup  
9 fees to Company for three years.

10 Is that correct?

11 A Yes, sir.

12 Q This loan was for \$150,000, as you  
13 understood it initial commitment?

14 A It says, loan amount initial commitment  
15 \$150,000. \$300,000 if lender is able to do so.

16 Q At this point, were you able to make the  
17 determination that the initial commitment of \$150,000  
18 was probably the same \$150,000 that was used as the  
19 downpayment?

20 A I was not, because I never followed  
21 through to even determine whether the loan was made  
22 or not. I had nothing to do with the loan and the

1 purpose of this document getting to me did not have  
2 anything to do with the loan but had to do with some  
3 supporting evidence of what the terms of the  
4 agreement between Castle Sewer and Water and Madison  
5 Financial were.

6 MR. COLE: Just to be clear, Mr. Shults,  
7 was it your understanding that the document we've  
8 been referring to, which is a multi-page loan  
9 application that's attached to a February 14, 1986  
10 letter to David Hale from Jim Guy Tucker, was a  
11 contemporaneous document with that letter?

12 That is, the document that was prepared on  
13 or about February 14, 1986?

14 THE WITNESS: That's what it appears to  
15 be.

16 MR. COLE: That's what it appears to be.  
17 I'm just checking if that was your understanding?

18 THE WITNESS: Yes, I think so.

19 MR. COLE: I don't believe the loan  
20 application itself is not dated. That's the only  
21 reason I asked that question.

22 THE WITNESS: I would assume that what you

---

1 just said is correct.

2 BY MR. BRENNER:

3 Q Do you know if this loan was ever made?

4 A I do not.

5 Q So you know this to be an assertion by Jim  
6 Guy Tucker to a third party about an agreement he may  
7 have with Madison Financial Corporation?

8 A Yes. That's what it appears to be.

9 Q Did you ever have an opportunity to review  
10 a February 14, 1986 offer and acceptance which is the  
11 offer and acceptance of the purchase of Castle Sewer  
12 and Water -- I'm sorry, the offer and acceptance of  
13 the Sewer System which is not known as Castle Sewer  
14 and Water for \$1,200,000?

15 A I don't believe I have seen that.

16 And, again, I have not gone through this  
17 file in detail in years. If it's in the file, I saw  
18 it. If it's not in the file, I'm sure I did not see  
19 it. I think everything that I have seen in  
20 connection with this letter is in the file which I  
21 have furnished to you.

22 Q Did you ever make a decision, as you were

1 putting documents together to work out the  
2 negotiation, that you should acquire the underlying  
3 loan documents and purchase documents from February  
4 of 1986 in order to adequately prepare for the  
5 negotiations?

6 A No. Unless they're in this file, I don't  
7 think so.

8 I think after I had understood from Jim  
9 Guy Tucker and R.D. Randolph what the terms of the  
10 agreement were, and after I had stated those to Mr.  
11 Cuffman and Ms. Hawkins, and there was no dispute  
12 about that, I didn't see any need to pursue that  
13 question further.

14 Q There was no dispute about the underlying  
15 figures, the million fifty thousand owed on the  
16 original note? I mean, when you say there's no  
17 dispute, I want to know what you're referring to.

18 A I'm referring to the summation of the  
19 agreement as I understood it in my letter to the  
20 Board of Directors of Madison Guaranty Savings &  
21 Loan.

22 Q That is the agreement that you attached to

---

1 your July 30th letter?

2 A Yes.

3 Q The unsigned agreement?

4 A Yes.

5 Q And you say nobody objected to the terms  
6 of that agreement, is that correct?

7 A Yes.

8 Q But that agreement --

9 I've already asked that question.

10 Not only was this agreement never signed,  
11 no similar agreement was ever signed which included  
12 the hook ups, was there?

13 A I'm not aware of any.

14 Q So while you say nobody disputed the fact  
15 that there was a requirement for the hookups,  
16 somebody decided that that was a contract that  
17 Madison was not comfortable entering into.

18 Is that correct?

19 A I believe you'll have to state that again.  
20 I don't understand it.

21 MR. BRENNER: Could you read back the  
22 question?

1 (Readback.)

2 THE WITNESS: I don't believe so.

3 I think the agreement -- my understanding  
4 was that Madison had in fact agreed to all of the  
5 matters I set out in my letter of 5/30/86.

6 BY MR. BRENNER:

7 Q Then I'll ask you the question, why was  
8 the agreement never signed?

9 A That I do not know.

10 Q Certainly you're not saying Castle Sewer  
11 and Water would not agree to the agreement that they  
12 furnished?

13 A I think that they were prepared to --  
14 thought that they had already entered into the  
15 agreement and that if Madison would perform, Castle  
16 Sewer and Water would perform.

17 Q But Madison didn't want to perform, did  
18 they?

19 A I think the point was that they couldn't  
20 or didn't.

21 Q Which means that they disputed some of the  
22 portions of the agreement?

1 A Not necessarily. It means that the  
2 breached the agreement.

3 Q Then why wasn't there a suit instituted  
4 for breach of contractual relationship?

5 A That's what this whole, my whole  
6 involvement was. Either to bring such a suit or to  
7 work out a settlement.

8 And if you will look through that file,  
9 you can see that we had lengthy negotiations with Mr.  
10 Jeff Stern in working out a reaffirmation of the  
11 agreement.

12 MR. COLE: Mr. Stern was a new counsel  
13 that was brought in to represent Madison Guaranty  
14 when the new management that was reporting I think to  
15 the Federal Savings & Loan Insurance Corporation came  
16 in?

17 THE WITNESS: That's correct.

18 (Pause.)

19 BY MR. BRENNER:

20 Q At some point, did you become aware that  
21 there had been some representation of Madison by the  
22 Rose Law Firm on certain sewer and water issues?



1 A No. The Rose Law Firm never figured into  
2 anything that I was involved in in this matter.

3 Q Did Mr. Tucker ever discuss with you a  
4 special Board meeting of Madison Guaranty held at his  
5 law firm on July 15, 1986?

6 A I don't think so.

7 Q Did he ever mention to you, explain to  
8 members of the Madison Board that the failure of  
9 Madison to register the sewer and water system was  
10 under Arkansas law not a problem?

11 A I'm not aware of that.

12 Q Did you ever see any documents that  
13 discussed the July 15, 1986 special board meeting?

14 A I don't believe so.

15 Q Did Mr. Tucker ever discuss with you an  
16 intra-office conference on Tuesday July 8, 1986 with  
17 Mr. John Selig, Mr. Speed and Mr. Latham?

18 A No.

19 Q And you haven't seen any documents related  
20 to that?

21 A I have not.

22 Q Did Mr. Tucker ever discuss with you

1 concerns he had about potential conflicts of interest  
2 between -- because of his representation of Madison  
3 and his involvement with Madison financially?

4 A No.

5 Q In going through the documents, were you  
6 ever concerned about the relationship, or did you  
7 ever mention to Mr. Tucker any concerns about the  
8 relationship between Mitchell, Williams, Selig,  
9 Jackson & Tucker and Madison?

10 A I don't believe I was aware of what that  
11 relationship was.

12 Q I have a letter, which is a partial draft,  
13 dated September 30, 1986, to Sarah Hawkins from the  
14 Mitchell Williams Law Firm. And one of the things  
15 that's outlined in this letter is the Castle Sewer  
16 and Water agreement. I don't know that you have a  
17 copy of it.

18 A Was it in my file?

19 Q I don't believe so.

20 A If not, I do not have a copy of it. As I  
21 said before, everything that is in my file you now  
22 have. You are probably much more familiar with it

1 than I am at this point.

2 Q Well, this particular portion is two  
3 paragraphs, and I'm going to read it.

4 A Okay.

5 Q It says: Castle Sewer and Water  
6 Corporation is a corporation owned in part by a  
7 partner in our law firm, Mr. Jim Guy Tucker. CSW  
8 acquired the sewer and water assets it owns from MFC  
9 in February 1986.

10 At or about the time of the acquisition of  
11 the sewer and water assets, McDougal and Mr. Tucker  
12 negotiated the terms of an agreement to be entered  
13 into by CSW and MFC whereby CSW would supply sewer  
14 and water service to MFC's Castle Grande Development.

15 The terms of the agreement were not put  
16 into written form by the parties at that time. By  
17 letter dated July 29, 1986, Mr. Tucker sent a copy of  
18 a proposed final written agreement between MFC and  
19 CSW to Ms. Hawkins.

20 It says see Exhibit 3 to this letter.

21 That's a letter, as I understand it, that you have.

22 A The one that we've earlier referred to?

1 Q Yes.

2 Back to the letter.

3 It is our opinion that MFC and CSW never  
4 entered into a final legally binding agreement and  
5 the agreement proposed by Mr. Tucker on July 29, 1986  
6 is not a legally binding commitment of MFC.

7 A I've never seen that.

8 Q Has anyone ever mentioned it to you?

9 A No.

10 Q Do you know if Mr. Tucker's ever seen  
11 this?

12 A I do not.

13 Q Do you know if Mr. Tucker has ever  
14 supplied information to his partners about the Castle  
15 Sewer and Water agreement?

16 A I do not.

17 Q Do you disagree with the second paragraph  
18 of this letter written by Mitchell Williams, Selig  
19 Jackson and Tucker.

20 A Where it says that there was no agreement  
21 entered into?

22 Q Yes.

1       A    Yes, I disagree with what my conclusion  
2 was, based on the information which I had, and the  
3 response of the representatives of Madison Financial  
4 when I wrote them on July 30, 1986 regarding the  
5 agreement.

6       Q    What documents did you have to support  
7 your conclusion?

8       A    I think it was the draft of the agreement,  
9 the unsigned agreement that I referred to, and  
10 representations of what Madison Financial had agreed  
11 to in connection with the sale of its sewer and water  
12 system.

13      Q    Those were the assertions of Mr. Tucker?

14      A    Mr. Tucker, and I believe Mr. Randolph as  
15 well.

16      Q    When did you first have discussions with  
17 Mr. Randolph?

18      A    I'm not sure. I would say not very long  
19 after I first opened my file on July 25, 1986. I  
20 think some time shortly after that, it seems to me.  
21 I may have had a meeting with Mr. Randolph and Mr.  
22 Cuffman here in my office at some point.

1       Q    Would that have been a meeting on  
2 October 28, 1986, which you memorialized in a writing  
3 on October 29, 1986 letter to Jim Guy Tucker?

4       A    I think I met perhaps earlier than that,  
5 at least with Mr. Randolph, I know I did. And I  
6 think I met also earlier with Cuffman. Whether it  
7 was with both Mr. Randolph and Mr. Cuffman, I'm not  
8 sure.

9       Q    Can you think of any reason why Mitchell  
10 Williams, Selig Jackson and Tucker would write a  
11 letter to Madison Guaranty that the agreement that  
12 you mentioned, and that was included in the July 30th  
13 letter that you wrote, would not be a legally binding  
14 agreement?

15      A    I do not know what went into the decision  
16 to write that letter because I was not familiar with  
17 it. And I think I am just now for the first time  
18 hearing about it.

19           (Pause.)

20           MR. BRENNER: Can we go off the record?  
21 I'd like to take a five-minute break if I could. I  
22 apologize.

1 (Recess.)

2 MR. GICALE: Mr. Shults, we're going to go  
3 back on the record.

4 BY MR. BRENNER:

5 Q Mr. Shults, I want to turn your attention  
6 to some handwritten notes. I believe they're your  
7 handwritten notes dated 10/28/86.

8 A I'm looking.

9 (Pause.)

10 Yes, I have them.

11 Q Could you read them for me?

12 A It says at the top, and the bottom, I'm  
13 talking to a file here I left open 10/28/86. Call  
14 from Jim Guy Tucker. He will be in court tomorrow.  
15 R.D. Randolph will come to meeting with Steve  
16 Cuffman.

17 Shall I continue?

18 Q It that a meeting you were having the next  
19 day with Steve Cuffman?

20 A Yes.

21 Q Was that a meeting to work out the  
22 agreement that you had sent to them two months prior?

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1 A I think we were working on a new agreement  
2 at that point.

3 Q A new agreement because they wouldn't  
4 agree to the tie-ins?

5 A No, they had previously agreed to the tie-  
6 ins, as I've indicated to you earlier, but they could  
7 not perform. And I think the whole purpose of  
8 Madison, of these negotiations, was to avoid having  
9 to take back the sewer and water system and to have  
10 Castle Sewer and Water agree to operate it.

11 And what we were looking at was what kind  
12 of an agreement could be entered into which would  
13 leave Castle Sewer and Water viable so that it could  
14 operate the system, and then determine how much debt  
15 it could pay to Madison.

16 Q I appreciate that.

17 I'd like to turn to number 4, which is in  
18 the notes you have circled.

19 Could you actually read the whole note?

20 A You want me to read the whole note?

21 Q After "Steve Cuffman," yes, sir.

22 A Proposed settlement with Madison Guaranty



1           1. Madison has asset on books greatly  
2 over-valued. Redo purchase agreement. Set price at  
3 \$500,000 rather than stated purchase price. This  
4 should be approved as reasonable value.

5           2. Castle Sewer and Water will forgive  
6 payment from Madison now and in the future, \$30,000  
7 owed now.

8           3. No payment from Castle Sewer and Water  
9 except on note to Madison.

10          4. Utility is not registered. Purchaser  
11 will get it registered as public utility by June  
12 1987.

13          5. If property sold during this time on  
14 notice by Castle Sewer and Water in the future,  
15 Madison will get 50 percent of the proceeds of  
16 \$500,000, the proceeds being the sales price as debt  
17 to Madison, return of \$150,000 from Castle Sewer and  
18 Water and payment of all outstanding debts against  
19 the system.

20          And there are notes on the side as well.

21          Do you want me to read those?

22          Q   Yes, please.

1          A   On the side up there opposite number 1, it  
2 says less \$100,000 note at \$400,000.

3           Down below that, should Castle Grande be  
4 reopened, any water lines to serve would be at  
5 Madison's expense. No hook up charge after accepted  
6 by Castle, they maintain.

7           Down at the bottom it says, conference  
8 10/29/86, Steve Cuffman, R.D. Randolph, 2124 first  
9 commercial.

10          Q   Next to the number 5, there's a two-line  
11 note that looks like it has an arrow.

12          Could you read that as well?

13          A   Yes. I read that earlier.

14          That's an insert apparently into the  
15 sentence after number 5, so that that sentence reads,  
16 if property is sold, then at that point, the two-  
17 line, what you're referring to, would be inserted.

18          Q   This is the proposed settlement Mr. Tucker  
19 wanted?

20          A   I believe that's correct.

21          Q   Because this is based on your phone  
22 conversation with Mr. Tucker?

1 A It must be.

2 Q Under number 4, you have utilities not  
3 registered. Purchaser will get it registered as  
4 public utility by June 1987.

5 Is that correct?

6 A Yes.

7 Q What is that a reference to?

8 A I am not fully aware of what that refers  
9 to. It's a utility regulation I'm sure. I'm not  
10 familiar with utility regulations, but I believe that  
11 the question was, did Castle Sewer and Water have to  
12 register the utility, the system as a public utility,  
13 and apparently it had not been previously registered  
14 as such by Madison.

15 Q This appears from the correspondence we  
16 have to be the first time that this is mentioned as  
17 an issue.

18 Is that correct?

19 A I think that's probably correct.

20 Q How did this become an issue?

21 A I do not know. It may be that Mr. Tucker  
22 realized that it wasn't registered and that that was

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1 something that had to be attended to.

2 Q Did he discuss this with you prior to  
3 10/28/1986?

4 A If he did, I don't recall it. I don't  
5 think that we ever had much discussion about the need  
6 to register it until we'd all negotiated the  
7 agreement and then realized that an essential part of  
8 the agreement was going to have to be the  
9 registration of the utility or some legislation which  
10 would make that registration not necessary.

11 Q By 10/28/86 had you primarily negotiated  
12 the agreement?

13 A I don't think so. No. I think that went  
14 on for a number of months.

15 Q So this was an issue mentioned.

16 A It seems to me the agreement wasn't  
17 entered into until some time in '87.

18 Q I agree with you.

19 But you had just made a statement that  
20 this didn't become an issue until after the contract  
21 had been primarily negotiated.

22 A I think that's correct.

1 Q But it appears that it's an issue as far  
2 as Mr. Tucker is concerned as early as 10/28/1986?

3 A I think that it says that it is not  
4 registered and the purchaser, which I assume would be  
5 Castle Sewer and Water, would get it registered as a  
6 public utility by June 1987.

7 Q But I'm asking you, did this become an  
8 issue as of 10/28/1986, or did it only become an  
9 issue much further down the road?

10 A It was not an issue that I paid any  
11 attention to until further down the road and then I  
12 really didn't pay any attention to it then except to  
13 know that it was something that had to be addressed  
14 before the parties would consummate the agreement,  
15 the new agreement.

16 Q Do you know why it was an issue?

17 A It seems to me that when it finally came  
18 up and they were trying to determine how much it  
19 would cost to operate Castle Sewer and Water and  
20 thereby determine how much it could pay to Madison,  
21 one of the factors that entered into how much it  
22 would cost to operate the utility depended on how

1 much cost would be involved in the regulation.

2 That was my understanding of the problem.  
3 And at some point, the agreement, the new agreement  
4 was essentially worked out, subject to some  
5 legislation being passed which would either relieve  
6 the Castle Sewer and Water of certain requirements or  
7 in some way reduce the costs of complying with them.  
8 But I do not know anything about that. I was not  
9 knowledgeable about utility matters and left that to  
10 Mr. Tucker and someone from Madison to try and work  
11 it out.

12 Q Do you know who was negotiating that?

13 A I don't know for sure, but I expect Mr.  
14 Tucker and perhaps Mr. Randolph, and Mr. Cuffman  
15 perhaps for Madison. But I know it was going on with  
16 that aspect of it. I was not involved in it.

17 Q Was Mr. Tucker represented by someone else  
18 for that aspect, or was Mr. Tucker representing  
19 himself?

20 A I can't answer that, I don't know. But I  
21 was not representing him in connection with either  
22 registration or legislation affecting registration.

1 Q On this note next to number 1 --

2 MR. COLE: Before we leave that subject,  
3 just to perhaps save time later on having to come  
4 back to this and recover all of this ground, when my  
5 turn to question comes, do you have any reason to  
6 believe, Mr. Shults, that the Rose Law Firm was  
7 representing Mr. Tucker with respect to that issue,  
8 that being the legislation issue?

9 THE WITNESS: I do not. I never heard the  
10 Rose Law Firm or anyone in it ever mentioned at any  
11 time when I was involved in this matter.

12 MR. COLE: So Mr. Tucker never indicated  
13 to you that the Rose Law Firm was doing legal work  
14 for Castle Sewer and Water on that issue?

15 THE WITNESS: No, he did not.

16 MR. COLE: Thank you.

17 As I said, I didn't meant to interrupt,  
18 but sometimes it's more efficient to ask those  
19 questions when they are pertinent, rather than to try  
20 to come back and start over again later on.

21 BY MR. BRENNER:

22 Q Getting back to the note on October 28,

1 the note seems to reflect that a price of \$500,000.  
2 Is that the price Mr. Tucker was willing to pay?

3 A Apparently so.

4 (Pause.)

5 Q I want to turn your attention to a  
6 November 12th, 1986 letter written by you to Steve  
7 Cuffman.

8 A Hold on just a minute.

9 Q No problem.

10 (Pause.)

11 A I have it.

12 Q Under A is rescision. It says Castle will  
13 convey the property back to Madison. Madison will  
14 convey back to Castle the \$150,000 downpayment with  
15 interest to date, and cancel the purchase contract  
16 and the two promissory notes executed by Castle. One  
17 in the amount of \$100,000 and one in the amount of  
18 \$950,000.

19 Is that correct?

20 A Yes.

21 Q Or, and you're proposing a new contract?

22 A Yes.



1 Q The purchase price will be reduced to  
2 \$500,000 and Madison will retain \$150,000 downpayment  
3 an Castle will give Madison its promissory note in  
4 the amount of \$350,000 bearing interest at the rate  
5 of ten percent per annum payable over a period of 15  
6 years.

7 Is that correct?

8 A Yes.

9 Q So it would appear, from your previous  
10 notes, that Mr. Tucker wasn't fully aware of his own  
11 financial transactions in this case. Is that  
12 correct?

13 A Repeat that again?

14 Q In other words, in the previous note, it  
15 mentioned \$100,000 down with \$400,000 remaining. And  
16 in this note, it mentions \$150,000 down with \$350,000  
17 remaining.

18 A Well, you're referring to my notes of  
19 October 28, 1986. It's possible that I got those  
20 wrong because if you will look at number 5, it talks  
21 about the return of \$150,000 to Castle Sewer and  
22 Water.

1 Q Yes, sir.

2 A I think you're probably, either you or I,  
3 one, are misconstruing what those 100,000 and 400,000  
4 dollar figures are.

5 Q Do you know what those figures are?

6 A No.

7 MR. COLE: There's nothing like looking at  
8 ten-year-old notes, is there, Mr. Shults?

9 THE WITNESS: That's true.

10 BY MR. BRENNER:

11 Q Mr. Shults, I want to turn your attention  
12 to a November 26, 1986 letter.

13 A To whom is it written?

14 Q It's written to Steven Cuffman from Jim  
15 Guy Tucker.

16 A I see it.

17 Q It starts with: Dear Steve, enclosed are  
18 several pieces of correspondence dealing with  
19 coverage on the sewer and water property.

20 Is that correct?

21 A Yes.

22 Q In the third full paragraph, starting with

1 "thus," the fourth line up from the bottom of the  
2 paragraph, could you read that two sentences, please?

3 A Yes.

4 Q Could you read those please?

5 A Thus I believe legislation will be  
6 essential to resolve the risk associated with what  
7 presently constitutes a "lawful" rate for system  
8 customers. To pass that legislation in this session  
9 will require immediate attention.

10 Shall I read the last sentence?

11 Q No, that's not necessary. I'm looking at  
12 the document and trying to determine how you received  
13 a copy of this document.

14 A Well, I don't know.

15 MR. COLE: Is it possible your client gave  
16 it to you?

17 THE WITNESS: That seems probable.

18 BY MR. BRENNER:

19 Q I was actually curious because I didn't  
20 see a cc as I've seen on many letters.

21 (Discussion off the record.)

22 MR. BRENNER: We'd like to go back on the

1 record.

2 THE WITNESS: All right.

3 BY MR. BRENNER:

4 Q Is this the first time that there was any  
5 documentation conveying to Madison the importance of  
6 the legislation?

7 A I do not know, you know, what may have  
8 been conveyed from Mr. Tucker to Mr. Cuffman or  
9 others earlier than this. This is the first time I  
10 saw it except for the notation on the October 28, my  
11 handwritten notes.

12 Q On the meeting on October 29, did you  
13 mention to Mr. Cuffman the importance of legislation,  
14 or at that time, had you made a determination that  
15 you were just going to register the sewer company?

16 A Based on the notes, it looks like Castle  
17 Sewer and Water was going to agree to get it  
18 registered by June of '87.

19 Q So, just to be clear, as of October 29,  
20 1986, it wasn't important, but as of November 26,  
21 1986, it was important.

22 Is that correct?

1 A What was important or what was not  
2 important?

3 Q Having some sort of legislation passed  
4 related to the sewer and water company.

5 MR. COLE: Isn't it hard for Mr. Shults to  
6 answer that since he only knows what his client,  
7 presumably knows what his client or others told him?

8 Your question I think is broader than  
9 that.

10 He can certainly answer about what he knew  
11 but I don't think he can answer beyond his own  
12 personal knowledge.

13 BY MR. BRENNER:

14 Q We're always asking in terms of what you  
15 knew or what you believed.

16 A Excuse me?

17 Q We're asking in terms of what you knew or  
18 what you believed to be the case.

19 A All I know is to refer to my notes on  
20 October 28. It looks like at that time, Castle Sewer  
21 and Water was contemplating getting the utility  
22 registered. Then it looks like by November, a month

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1 later, the question had arisen about the cost  
2 associated with the registration. And I gather that  
3 that's when Mr. Tucker wrote this letter to Mr.  
4 Cuffman.

5 But I expect you can reach a conclusion  
6 from that just as well as I could.

7 Q When did you first discuss, or have  
8 correspondence, or come to realize that the whole  
9 formation of a new contract was dependent on the  
10 passage of legislation?

11 A I suppose somewhere along in there.

12 Q Did Mr. Tucker discuss it with you before  
13 he sent this letter?

14 A No, I don't believe he did.

15 Q So you only knew the importance based on  
16 communications your client had with Mr. Cuffman to  
17 begin with?

18 A I think that was probably the first  
19 indication I had that there was going to have to be  
20 some legislation involved.

21 Q Well, we're moving forward and I'm going  
22 to turn your attention to a January 23rd, 1987 letter

1 addressed to you from Ingersoll & Block by Jeffrey B.  
2 Stern.

3 A Yes.

4 Q Dear Robert, pursuant to our meeting in  
5 your office on January 15, 1987 -- is that the  
6 letter?

7 A Yes, sir.

8 Q With Jim Guy Tucker and Mr. Randolph, the  
9 following course of action is the way in which I  
10 believe we should proceed to work out the existing  
11 loan relationship between Castle and Madison  
12 Guaranty.

13 Do you recall meeting on January 15 in  
14 your office in 1987 with Jim Guy Tucker, R.D.  
15 Randolph and Jeffrey Stern?

16 A I'm sure that I did have such a meeting.  
17 But I don't physically recall it. I don't know  
18 whether I met with Mr. Stern more than once in my  
19 office or not. But I certainly did on at least one  
20 occasion, and I think maybe more than one.

21 Q I'd like to move forward under number one,  
22 proposed workout terms.

1 A Yes.

2 Q Could you read the first sentence to me,  
3 please?

4 A We cannot and do not purport to address in  
5 this letter the representations allegedly made to  
6 your client by Jim McDougal concerning a potential  
7 development of Castle Grande and a minimum number of  
8 annual hook-ups.

9 Shall I continue?

10 Q No, that's fine. Thank you.

11 Earlier you'd made the statement that  
12 Madison Financial or Madison Guaranty, rather, had  
13 never objected to your assertions about the number of  
14 hookups.

15 A Correct.

16 Q And in fact had accepted that as true?

17 A Yes.

18 Q In reading this sentence, does this  
19 refresh your recollection that in fact maybe Madison  
20 Guaranty didn't agree with the assertion you were  
21 making?

22 A I think when Mr. Stern got into the



1 picture for negotiation purposes, he took that  
2 position.

3 Q So in fact Madison Guaranty wasn't  
4 agreeing with you that there was a contract for  
5 annual hookups?

6 A Well, you're misconstruing what I said,  
7 Mr. Brenner. I had said earlier that in our  
8 negotiations beginning back in June or July of '86,  
9 the people at Madison always acknowledged that  
10 obligation.

11 When Mr. Stern got in the picture --  
12 you've probably been involved in negotiations before  
13 -- he took the position that well, we're not  
14 conceding that there is any such obligation at all.

15 I took the position that had been  
16 previously recognized by Madison and certainly there  
17 was. That was two opposite positions taken by two  
18 lawyers trying to negotiate an agreement for their  
19 clients.

20 MR. COLE: The letter speaks for itself  
21 but it seems to me that Mr. Stern is specifically  
22 trying to avoid getting bogged down in that issue in

1 this letter. In fact, I think we might profitably  
2 take the same course of action in this deposition,  
3 but I leave that to Mr. Brenner.

4 Majority counsel is consulting, Mr.  
5 Shults.

6 THE WITNESS: Excuse me?

7 MR. COLE: I just wanted to let you know  
8 that majority counsel is consulting. That's why  
9 there's the dead time.

10 MR. GICALE: It's not the equipment. It  
11 is the equipment, but it's a different type.

12 (Laughter.)

13 BY MR. BRENNER:

14 Q On the second page of that letter, under  
15 number 2?

16 A Yes.

17 Q Legislative initiative.

18 It says, in our meeting, Mr. Tucker raised  
19 a question of the rates being charged by Castle  
20 Sewer and Water. Mr. Tucker talked of an attempt to  
21 introduce and pass, during this legislative session,  
22 appropriate legislation which would exempt water and

1 sewer systems or districts from the rate regulation  
2 as long as the rates being charged were not in excess  
3 of the rates charged by the City of Little Rock.

4 Madison agrees that such legislative  
5 initiative must be taken during the current session  
6 of the legislature and agrees to support Mr. Tucker  
7 in his attempt to pass the legislation.

8 Madison further agrees that such  
9 initiative must be taken immediately if there's to be  
10 any possibility of passing a law during the current  
11 session.

12 Do you recall a discussion during your  
13 meeting with Mr. Stern, Mr. Randolph and Mr. Tucker  
14 about the legislative initiative?

15 A As set forth in Mr. Stern's letter, yes.

16 Q At this point, had it been decided by Mr.  
17 Tucker, you and Mr. Stern, that the future  
18 contractual relationship between Madison and Castle  
19 Sewer and Water hinged on the passage of this  
20 legislation?

21 A Yes. There would have been, that is, the  
22 consummation of the agreement which we were striving

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1 to work out with Mr. Stern in the form that we were  
2 then addressing it was contingent on this  
3 legislation. I guess if the legislation hadn't been  
4 passed, there could have been further negotiations to  
5 perhaps reach a different form of agreement, but one  
6 in which we were, or the approach that we were using  
7 was contingent on the passage of the legislation.

8 Q Now this legislation was specifically  
9 designed to address the needs of Castle Sewer and  
10 Water to avoid oversight by the Public Service  
11 Commission, is that correct?

12 A I cannot intelligently tell you what the  
13 legislation did. I never paid any attention to it.  
14 And as I told you earlier, I didn't know anything  
15 about and don't know anything about utility  
16 regulations.

17 Q Did you have a general understanding of  
18 what this legislation would be designed to do?

19 A Yes. And I think it's as you said, it was  
20 going to allow Madison to charge rates.

21 Q When you say Madison, do you mean Castle  
22 Sewer and Water?

1 A It would allow Castle Sewer and Water to  
2 charge rates which would be not tied into the normal  
3 rate procedures.

4 Q There's no mention in this letter of the  
5 failure of Castle Sewer and Water to register, is  
6 there?

7 A There is not.

8 Q Was that an important issue at the January  
9 15, 1987 meeting, the registration?

10 A I think by that time frankly I don't know.  
11 Even the legislation may still have contemplated  
12 registration. I'm not sure about that.

13 Q But it's not memorialized in that letter  
14 that the registration issue was vital?

15 A There's no reference to it.

16 Q Can we assume from that that it wasn't a  
17 major issue at the meeting?

18 A I don't think so.

19 Q You don't think we can assume from that  
20 that it wasn't a major issue?

21 A I don't think we can assume one way or the  
22 other, because I do not know. After the passage of

1 the legislation, registration was still required. I  
2 don't know.

3 Q But you do know it's not memorialized in  
4 the letter?

5 A I do.

6 Q I'd like to turn your attention to a  
7 February 13, 1987 letter that you wrote to Jeffrey  
8 Stern, and in it is an enclosure.

9 A I'm looking.

10 (Pause.)

11 A What's the date again, please?

12 Q February 13, 1987.

13 A Yes, I see it. I see that letter.

14 Q It starts: Thank you for your letter of  
15 January 23, 1987 on behalf of Madison Guaranty.

16 A Right.

17 Q Under number 1, proposed legislation?

18 A Right.

19 Q It says: In accordance with paragraph 2  
20 of your letter, Castle Sewer and Water Corporation  
21 has prepared the enclosed draft of the proposed  
22 legislation.

1       A    Yes.  
2       Q    Who prepared the proposed draft?  
3       A    I assume Mr. Tucker or Mr. Randolph or  
4 someone on their behalf. I did not.  
5       Q    Did you ask Mr. Tucker to prepare it?  
6       A    I did not.  
7       Q    Did Mr. Tucker instruct you that he was  
8 going to prepare it?  
9       A    Yes, or have it prepared.  
10      Q    Did he who he was going to have prepare  
11 it?  
12      A    I don't believe he did.  
13      Q    Did he ask you to do a search on the  
14 Arkansas statutes regarding --  
15      A    He did not. All of those references to  
16 the statutes were given to me, I assume, by Mr.  
17 Tucker.  
18           MR. COLE: I'm not sure this is in the  
19 record of this deposition. Mr. Tucker was a  
20 practicing attorney at the time.  
21           Is that correct?  
22           THE WITNESS: That's correct.

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1           MR. COLE: And he worked at a fairly large  
2 law firm by Little Rock standards at that time?  
3           THE WITNESS: Yes.  
4           MR. COLE: Thank you.  
5           BY MR. BRENNER:  
6      Q    Do you know of Mr. Tucker consulted the  
7 Rose Law Firm about this legislation or about the  
8 issues of registration?  
9      A    I do not. Although, as I've said before,  
10 that name never came up at any time in my dealings  
11 with this matter.  
12      Q    Well, did you discuss with Mr. Tucker the  
13 need to register Castle Sewer and Water?  
14      A    I did not. I don't know and did not know  
15 whether it did need to be registered.  
16      Q    But Mr. Tucker mentioned to you in the  
17 October 28th discussion that's memorialized in your  
18 handwritten notes, that he would agree to register  
19 Castle Sewer and Water by June of 1987?  
20      A    Yes.  
21      Q    Did you discuss this with Mr. Tucker?  
22      A    I don't believe I did.



1 Q Did Mr. Tucker just lay out to you the  
2 five parts of the agreement that he'd be willing to  
3 accept?

4 A I expect that's the way I got that  
5 information.

6 Q And you didn't do any follow-up to prepare  
7 for your meeting the following day?

8 A I don't think so. Mr. Randolph was here  
9 at that meeting and I think he spoke for Castle Sewer  
10 and Water at that meeting.

11 Q Was Mr. Randolph familiar with the terms  
12 as laid out in your October 28th memo or note?

13 A I assume that he was since he was at the  
14 meeting and I think I conveyed to Mr. Cuffman at that  
15 meeting what those terms, proposed terms were. And  
16 Mr. Randolph was at that meeting.

17 Q You laid out the five terms that Mr.  
18 Tucker had mentioned to you earlier?

19 A I'm sure that I did.

20 Q And you didn't seek, from him, any further  
21 information to prepare for that meeting on the 29th?

22 A I don't believe so.

1 Q Were you involved in any discussion of a  
2 plan to get this legislation passed that you had  
3 forwarded to Mr. Stern?

4 A I was not.

5 Q So you received the information from Mr.  
6 Tucker, you wrote the first sentence of the letter,  
7 and then took all the information that Mr. Tucker had  
8 provided to you and forwarded that, or did you  
9 actually look at the proposed legislation and the  
10 statutes?

11 A I don't think I ever looked at the  
12 statutes, and I certainly did not look, with any  
13 effort to understand, the proposed legislation.

14 Q I'd like to turn your attention to  
15 paragraph 2 under Proposed Legislation.

16 A All right.

17 Q Do you see that?

18 Could you read that into the record for  
19 me, please?

20 A This legislation would seek to deal with  
21 the very substantial problems faced by Castle Sewer  
22 and Water and Madison, as a result with the failure

1 of the various owners of this utility property to  
2 ever register with or comply with the statutes and  
3 regulations affecting public utilities in Arkansas.

4 Q Do you know who the various owners of the  
5 utility property were?

6 A I suppose it was Madison and then Castle  
7 Sewer and Water.

8 Q Do you know who it was before it was  
9 Madison?

10 A I do not.

11 Q And you knew that before Castle Sewer and  
12 Water obviously it was Madison?

13 A Yes.

14 Q Do you know who represented Madison?

15 A At what point?

16 Q During the latter half of 1985 and the  
17 first half of 1986?

18 A I do not.

19 Q Were you familiar with the fact, or have  
20 you heard that in fact the Rose Law Firm did a  
21 portion of Madison's work during that time period?

22 MR. COLE: I think here it's very

1 important and I'm sure Mr. Shults would do this in  
2 any event, to try to separate out what he actually  
3 knew at the time from what he may have since read in  
4 newspapers in view of the considerable amount of  
5 publicity that this matter has had in the Arkansas  
6 newspapers, which I'm sure you would do in any event,  
7 Mr. Shults. But I think that's worth noting.

8 THE WITNESS: At the time of my  
9 representation of Castle Sewer and Water, I did not  
10 know that Rose Law Firm had ever been involved with  
11 Madison.

12 BY MR. BRENNER:

13 Q Do you know who represented Madison  
14 Financial on the sale to Castle Sewer and Water?

15 A I do not.

16 Q Do you know who represented either the IDC  
17 or Madison Financial or Madison Guaranty on anything  
18 related to the sewer and water property?

19 A What is the IDC?

20 Q Industrial Development Corporation.

21 A No, I do not know.

22 MR. COLE: Do you know whether Mr.

1 Tucker's firm, the Mitchell Williams firm, did legal  
2 work for Madison Guaranty, Mr. Shults, at the time  
3 that we're discussing, 1985-1986?

4 A I did not know that.

5 BY MR. BRENNER:

6 Q Do you know Seth Ward?

7 A I do.

8 Q How do you know Mr. Ward?

9 A Well, I don't really know him personally.

10 But one of my partners represented him in a lawsuit  
11 or the appeal of a lawsuit with Madison Guaranty.

12 Q And who was that?

13 A The lawyer?

14 Q Yes, sir?

15 A Tom Ray, R-A-Y.

16 Q Have you been involved with any public  
17 utility issues prior to being involved with Castle  
18 Sewer and Water?

19 A No.

20 Q Subsequent to being involved with Castle  
21 Sewer and Water?

22 A No.

1 (Pause.)

2 Q Do you know who owned the sewer and water  
3 system prior to Madison Financial Corporation?

4 A I do not.

5 Q We're still at that February 13, 1987  
6 letter that you wrote.

7 A Yes.

8 Q Prior to this letter, what discussions did  
9 you have with anybody about the potential legislation  
10 and the need to have that legislation, other than the  
11 ones already mentioned?

12 A I don't think I had any. Apparently at  
13 the meeting with Mr. Stern, that we referred to  
14 earlier, the legislation was discussed, and Mr.  
15 Tucker or someone undertook to get it passed.

16 Q Well, did Mr. Tucker discuss his plan with  
17 you at all?

18 A He did not, except to say that he was  
19 going to try, along with Madison, to get the  
20 legislation passed.

21 Q So you were the lawyer representing him on  
22 the contract work out?

1 A That's true.

2 Q But he didn't discuss with you any plan of  
3 action or he didn't discuss with you in any way,  
4 other than what we've already discussed, a plan of  
5 attack for the legislative action?

6 A He did not. I saw a copy of a letter  
7 which I believe he wrote to the Governor, trying to  
8 get support for the legislation, but other than that,  
9 I was not in any way involved and didn't know about  
10 it, except that it was understood that he was going  
11 to keep me and Jeff Stern advised on whether or not  
12 they were able to get it passed.

13 Q Did he ever discuss with you who the  
14 potential sponsors of the legislation might be?

15 A He did not.

16 Q Have you ever heard the name William  
17 Walker?

18 A Yes.

19 Q Who is William Walker?

20 A He is a representative from Pulaski  
21 County, or was at the time, I believe.

22 Q How do you know Mr. Walker?

---

1 A I don't know him.

2 Q How do you know the name?

3 A Well, it's in the paper from time to time.  
4 I know the names of most of our representatives from  
5 Pulaski County.

6 Q Did you know Mr. Walker as one of the  
7 sponsors of the proposed legislation?

8 A Not until I saw a copy of the letter that  
9 Jim Guy Tucker wrote to Governor Clinton on April 24,  
10 1987.

11 Q As part of the attachments to the letter,  
12 there's Public Utilities 73-201.

13 MR. COLE: Are we still talking about the  
14 February 13, 1987 letter?

15 MR. BRENNER: Yes, I'm sorry. The  
16 February 13, 1987 letter.

17 THE WITNESS: What about it?

18 BY MR. BRENNER:

19 Q I'd like you to turn to the first page of  
20 Public Utilities. It's page 38-73201. It's on the  
21 upper left hand corner.

22 A Hold on, I'm trying to get to that.



1 Q No problem.  
2 A Where is it in relation to the attachment?  
3 Q I believe it is one of the attachments.  
4 A Okay. And what am I looking for?  
5 Q 73-201, page 38.  
6 A Yes, I see that.  
7 Q On your copy, are there lines under  
8 certain words?  
9 A Yes.  
10 Q Who made those notations?  
11 A I do not know. I did not.  
12 Q They are on your copy so they're notations  
13 received maybe before you received copies?  
14 A Yes.  
15 Q These were forwarded to you by Mr. Tucker?  
16 A I'm sure they were.  
17 (Pause.)  
18 Q Do you know who Mike Wilson is?  
19 A He is a lawyer and also, at that time, was  
20 a member of the House of Representatives here in  
21 Arkansas from Pulaski County.  
22 Q Did you have any discussions with Mr.

---

1 Tucker about Mr. Wilson?  
2 A I did not.  
3 Q Did you have any discussions with Mr.  
4 Wilson?  
5 A I did not.  
6 Q Did you know Mr. Wilson was one of the  
7 sponsors of the legislation?  
8 A Only from the copy of the letter of  
9 April 24, 1987, which I previously referred to.  
10 Q I have a memorandum dated February 24,  
11 1987 to Mike Wilson from JGT. I assume that's Jim  
12 Guy Tucker. And you are cc'd on it.  
13 A I'm looking to see.  
14 Q It's a two-page memo and it's got a six-  
15 page attachment, which appears to be the proposed  
16 legislation.  
17 A And what's the date of it?  
18 Q February 24, 1987.  
19 A Do you know whether that's in my file or  
20 not?  
21 Q I believe it is. You were cc'd on the  
22 letter.

1 A Okay.  
2 (Pause.)  
3 Sorry, it's not in that sequence.  
4 Q No problem. We'll take a minute.  
5 (Pause.)  
6 A It's a memo from whom to whom?  
7 Q It's a memo from Jim Guy Tucker to Mike  
8 Wilson.  
9 MR. BRENNER: Go off the record.  
10 (Discussion off the record.)  
11 THE WITNESS: I have found it. It's dated  
12 February 24, '87. Is the one you're referring to  
13 dated February 24, 1987?  
14 BY MR. BRENNER:  
15 Q Yes, it is.  
16 A I have found it.  
17 Q The first sentence reads:  
18 Attached is a proposed bill designed to  
19 take care of the problem of both Madison Guaranty  
20 Savings & Loan and Castle Sewer and Water  
21 Corporation.  
22 A Yes.

1 Q The bill attempts to deal only with the  
2 CS&W sewer and water system by being limited to  
3 private companies within ten miles of a city with a  
4 population in excess of 140,000.  
5 Is that correct?  
6 A Yes.  
7 Q Why did you receive a copy of this memo?  
8 A I suppose he was trying to keep me  
9 apprised of the fact that they were trying to get the  
10 legislation passed.  
11 Q Did you ever discuss this memo with  
12 anyone?  
13 A I did not. I may have reported it to Jeff  
14 Stern at some point that Mr. Tucker was proceeding to  
15 try to get the legislation passed. But other than  
16 that, I wouldn't have done anything with regard to  
17 it.  
18 Q You never discussed this with Mr. Tucker?  
19 A I did not.  
20 As far as my participation, I was assuming  
21 that Castle Sewer and Water and Madison were taking  
22 care of the legislation, and Mr. Stern and I were

1 standing by to see if it was going to be passed, and  
2 if so, we could proceed.

3 But I don't think Mr. Stern, nor I -- I  
4 know I didn't, and I don't think he really had  
5 anything to do with the legislation. Some people  
6 from Madison may well have. I don't know. But I was  
7 not concerning myself with it one way or another.

8 Q Do you have any idea who did the legal  
9 work on this memorandum?

10 A I do not.

11 Q Mr. Tucker never mentioned to you, even in  
12 passing, that he had one of his associates working on  
13 this?

14 A No.

15 Q Did you ever have any conversations with  
16 Mr. Tucker asking him how it was going?

17 A I did not.

18 Q Did he ever call you and report to you as  
19 to how it was going?

20 A Only when it was finally passed, I  
21 believe.

22 Q So he wasn't keeping you updated on a more

---

1 regular basis with the exception of what we have in  
2 front of us by way of memos and letters?

3 A He was not. Mr. Tucker, I'm sure, knew  
4 that I do not get involved in lobbying or legislative  
5 matters.

6 Q There's a March 25th, 1987 Ingersoll &  
7 Block letter addressed to you.

8 A Okay.

9 (Pause.)

10 (Discussion off the record.)

11 MR. COLE: Why don't we ask Mr. Brenner to  
12 read the portion he's interested in to you, and if  
13 that presents a problem, you can continue looking?

14 BY MR. BRENNER:

15 Q It's a three-page letter from Ingersoll &  
16 Block on Jeffrey Stern's signature.

17 On the second page, at the bottom, number  
18 6, in terms of the proposal, it says, legislation,  
19 all of the terms of this proposal are contingent on  
20 the successful passage and signing by the Governor of  
21 the utilities legislation with which Jim Guy Tucker  
22 is involved.

1 A I think that's accurate.

2 Q At this point, they proposed a purchase  
3 price modification of \$675,000, giving Castle credit  
4 for the \$150,000 downpayment, and leaving a principal  
5 balance --

6 A Hold on just a minute. What's the date of  
7 that letter?

8 Q March 25, 1987.

9 A Yes, I found it.

10 Q Number 1 on the purchase price  
11 modification.

12 A Okay.

13 Q Castle's mortgage, this would leave a  
14 principal balance on Castle's mortgage of \$525,000.  
15 Payments of interest only to be made over ten years  
16 with principal balance due at maturity.

17 Is that the correct letter?

18 A Yes. It's on a different color from  
19 Ingersoll & Block's usual stationery. That's why I  
20 had so much trouble.

21 Q So by this point in the negotiations,  
22 everything hinged on the passage of the legislation.

---

1 Is that correct, the entire deal?

2 A The entire deal as negotiated at that  
3 point, as I've indicated earlier.

4 There was never any discussion about it,  
5 but I'm assuming that if the legislation did not  
6 pass, that we would go back to trying to negotiate a  
7 suitable deal without the legislation.

8 Q But it went back to the drawing board?

9 A Right.

10 Q Now I'd like to refer you to an April 9th,  
11 1987 Ingersoll & Block letter.

12 A All right. I hope it's on the right color  
13 paper.

14 (Pause.)

15 (Discussion off the record.)

16 MR. BRENNER: Back on the record.

17 BY MR. BRENNER:

18 Q It's Ingersoll & Block Federal Express to  
19 you and it says:

20 Dear Mr. Shults, in keeping with our  
21 agreed-upon time table for consummating a work out  
22 agreement on the above-referenced loan, enclosed for



1 your review is a revised copy of the proposed  
2 agreement which we received from you on April 9,  
3 1987.

4 A Okay.

5 Q Our revisions to the proposed agreement  
6 are primarily points of clarification and correction.  
7 Our revisions have been underlined for your easier  
8 reference.

9 Although I believe the enclosed agreement  
10 adequately represents the positions of the parties,  
11 they remain subject to the review and approval by  
12 Jeffrey Stern, the Board of Directors of Madison  
13 Guaranty and the Federal Home Loan Bank Board of  
14 Dallas.

15 A Who signed that letter?

16 Q I'm not quite finished.

17 In addition, I understand that the  
18 Governor has vetoed House Bill 1780 which was a  
19 critical element of the proposed agreement. Susan  
20 Holmes has informed me that you are looking into the  
21 legal aspects of having the veto reversed or having  
22 the legislation reintroduced in an emergency session,

1 which is due to commence in a few weeks.

2 We would appreciate being kept apprised of  
3 the progress in this matter.

4 Gratefully yours, Katherine A. Shepherd.

5 A Okay. I did not have, what did it say I  
6 was going to do?

7 Q It says that Susan Holmes, do you know who  
8 Susan Holmes is?

9 A No. Who is she?

10 Q That's what we're trying to find out.

11 A No, I'm sorry, that doesn't ring a bell.

12 Q Susan Holmes has informed me that you are  
13 looking into the legal aspects of having the veto  
14 reversed or having the legislation reintroduced in an  
15 emergency session which is due to commence in a few  
16 weeks.

17 A I found that letter, by the way, right  
18 now.

19 Q If you can read the last paragraph?

20 A I don't know who Susan Holmes is, and if  
21 so, that information is not correct. I wasn't  
22 looking into that at all.

1 Q Did you receive this letter?

2 A I did.

3 Q Did you read it in or around April 9,  
4 1987?

5 A Yes, I read it.

6 Q At that point, did you object in any way  
7 to the comment made in the last paragraph?

8 A No, I'm sure I didn't. I think I passed  
9 it on to Mr. Tucker, and assumed that he was doing  
10 what she had referred to. I'm not sure who she is.  
11 And I, as I told you before, had nothing to do with  
12 the legislation. And I certainly wasn't looking into  
13 any legal aspects of having the veto reversed.

14 Q Is this April 9, 1987 the first time you  
15 learned about the veto?

16 A Must have been.

17 Q Mr. Tucker might have contacted you. Do  
18 you recall Mr. Tucker contacting you prior to your  
19 receiving this letter on April 10th?

20 A I don't recall any such thing.

21 Q You don't recall anyone getting in touch  
22 with you, Mr. Randolph perhaps?

1 A They probably did and probably said the  
2 legislation's been vetoed and I expect I informed Mr.  
3 Stern of that.

4 Q After learning of the veto, did Mr. Tucker  
5 tell you there was some sort of plan, or did anybody  
6 else tell you that there was some sort of plan to  
7 either reverse the veto or introduce a new bill in  
8 special session?

9 A At some point, I received copies of  
10 letters which indicated that was going to happen.

11 Q When was this?

12 A I'm not sure. I'm looking at a letter  
13 here from Jeffrey Stern to me dated May 4, 1987 in  
14 which he says, Dear Robert, I have received Jim Guy  
15 Tucker's letter of April 27, 1987, and I agree that  
16 we should complete our agreement in anticipation of a  
17 special legislative session.

18 However, I do not believe the Federal Home  
19 Loan Bank of Dallas will approve of the agreement and  
20 workout proposal because it extends to the  
21 uncertainty of a period of time before the special  
22 legislative session meets.

1 I would assume that matter was on hold at  
2 this point.

3 Q So your first recollection is April 27th  
4 or May 4th, rather?

5 A I probably knew earlier that it had been  
6 vetoed, but I don't know about that.

7 Q Not in terms of the veto, but in terms of  
8 the reversal of the veto or the special session  
9 introducing a new bill?

10 A I think that was my first knowledge of  
11 that, yes.

12 Q Mr. Randolph was your client as President  
13 of Castle Sewer and Water, is that correct?

14 A I represented Castle Sewer and Water, and  
15 I guess to the extent that he was the president, I  
16 represented him.

17 Q Did you have contact with Mr. Randolph say  
18 once a month?

19 A I don't think so. I think after my  
20 initial contacts with him, and at some point when he  
21 was compiling figures which I passed onto Madison, I  
22 think my contacts with him pretty much ceased.

1 Q So you don't recall being contacted by Mr.  
2 Randolph around the time of the veto?

3 A I don't recall so. It could have been but  
4 I don't know.

5 Q Did you come to know, in April or May of  
6 1987, that Mr. Randolph dropped by to see the  
7 Governor about the water bill veto?

8 A I was not aware of that.

9 Q Have you subsequently become aware of  
10 that?

11 A I possibly did at some point, but I don't  
12 know.

13 Q Do you recall how you became aware of  
14 that?

15 A I do not.

16 Q I continue to read.

17 He said that he talked to you on Sunday  
18 morning.

19 A Where is this please?

20 Q I'm reading something that's not in your  
21 documents.

22 A Okay.

1 Q When Mr. Randolph stopped by to see the  
2 Governor, he said that he had talked to the Governor  
3 already on Sunday morning, and he wants to know if  
4 the veto is going to stand. He would like you to  
5 call Jim Guy Tucker about this. He said that he has  
6 a difficult time getting an answer from you.

7 Did Mr. Tucker ever mention being  
8 contacted by the Governor about the veto?

9 A He did not.

10 Q Did he ever mention being contacted by the  
11 Governor about a potential special session?

12 A He did not.

13 Q Did he contact you in any way about  
14 working out a legislative proposal which would allow  
15 you to go forward with a contract with Madison  
16 Guaranty on the workout?

17 A I think he probably told me and Mr. Stern  
18 at some point that he was going to try to do that. I  
19 don't know at what point it happened.

20 Q But it would have been in April or May,  
21 1987?

22 A I would suspect somewhere along in there.

---

1 Q To continue, Mr. Randolph mentioned a  
2 meeting between the Governor, former Governor, Jim  
3 Guy Tucker, and Jim McDougal.

4 Quote, a couple of years ago, and keep in  
5 mind that this was written in 1987, which involved  
6 \$33,000.

7 Have you ever heard about this?

8 A I have not.

9 Q Has Mr. Tucker ever mentioned to you a  
10 meeting between him and the Governor or a fundraiser  
11 involving the Governor and him? Former governor, I  
12 apologize.

13 Strike the whole question.

14 A That's all right. The answer is no.

15 Q Did Mr. McDougal ever contact you about  
16 Castle Sewer and Water?

17 A He did not. I have never met or talked to  
18 Mr. McDougal.

19 Q Did Mr. Randolph ever mention to you a  
20 meeting between Governor Clinton, Jim Guy Tucker, and  
21 Jim McDougal involving \$33,000?

22 A He did not.



1 Q I want to turn your attention to an  
2 April 24, 1987 letter on Mitchell, Williams, Selig,  
3 and Tucker letterhead.

4 To The Honorable Bill Clinton

5 By Jim Guy Tucker

6 And you are cc'd on the letter, along with  
7 R.D. Randolph, Jeff Stern, Mike Wilson, and William  
8 Walker.

9 A I have seen that letter. I will try and  
10 see if I have a copy.

11 Q Thank you.

12 (Pause.)

13 A This file has been taken apart so many  
14 times to send to your office that it's not in what  
15 would be its usual order.

16 MR. BRENNER: We can go off the record.

17 (Discussion off the record.)

18 MR. BRENNER: Back on the record.

19 BY MR. BRENNER:

20 Q It's addressed to The Honorable Bill  
21 Clinton.

22 Dear Governor Clinton, HB1780 by

1 Representatives Mike Wilson and William Walker was  
2 vetoed after having passed both houses with no  
3 dissenting vote.

4 Is that the first sentence?

5 A Yes.

6 Q The bill was designed to resolve the  
7 problem faced by small water and sewer companies that  
8 comply easily and fully with the EPA and State Health  
9 Department requirements, but are not financially able  
10 to comply with the statutes requiring rate regulation  
11 by the State Public Service Commission.

12 Is that correct?

13 Is that the right letter?

14 A Yes.

15 Q I'm going to continue.

16 The bill is considered an excellent model  
17 and it offers such sewer and water companies the  
18 opportunity for substantial rate deregulation if the  
19 company is willing to limit its rates to no more than  
20 110 percent of the rate being charged by a city of  
21 the first class to its own customers.

22 R.D. Randolph, Madison Guaranty Savings &

1 Loan and I were all very disappointed that this non-  
 2 controversial bill was vetoed. If the special  
 3 session does become necessary, we ask that your call  
 4 include this legislation. If a member of your staff,  
 5 who suggested the veto, has any questions or desires  
 6 revisions in its form, we certainly hope  
 7 Representative Walker, Representative Wilson, R.D. or  
 8 I will be given the opportunity to respond.

9 Do you recall seeing this letter?

10 A Yes.

11 Q Did Mr. Tucker discuss this letter with  
 12 you before writing it?

13 A No.

14 Q Did he discuss this letter with you after  
 15 writing it?

16 A No.

17 Q Did Mr. Randolph discuss this letter with  
 18 you?

19 A No.

20 Q Did Mr. Stern discuss this letter with  
 21 you?

22 A He could have called to say that he hoped

1 it would be passed, but I don't recall any discussion  
 2 with Mr. Stern about it.

3 Q Do you recall talking to Governor Tucker  
 4 during April of 1987 about the veto or about the  
 5 special session?

6 A I don't recall. I could have, but I don't  
 7 recall any such conversation. He may have called to  
 8 say that they were trying again to see if they could  
 9 get it passed. I may have passed that on to Mr.  
 10 Stern. But I don't have any specific recollection of  
 11 any conversations with Jim Guy Tucker about his  
 12 legislative efforts.

13 Q There's two handwritten notes on one sheet  
 14 of paper. One of them on the bottom has your classic  
 15 small "r" small "s". Is that your classic signature  
 16 on handwritten memos?

17 A Yes, it is.

18 Q The first one appears to be to r.s.  
 19 That's a phone message, April 27th, Jeff Stern, (202)  
 20 232-1016. Any progress on Castle Sewer and Water?

21 The bottom one is dated April 28, 1987 at  
 22 4:55.

1       A    I don't have it, but go ahead.  
2       Q    I'm working with Mr. Gicale to read the  
3 memo.  
4       A    Okay.  
5       Q    And it says, although your handwriting is  
6 better than most we've seen --  
7       A    That's a combination of somebody.  
8       Q    I represent it to Catherine Shepherd, and  
9 then it's in a parenthetical, in Jeff Stern's  
10 absence.  
11       MR. COLE: I think it says I reported to  
12 Catherine Shepherd.  
13       MR. BRENNER: You're correct.  
14       I reported to Catherine Shepherd in Jeff  
15 Stern's absence.  
16       MR. COLE: A letter from Jim Guy to  
17 Governor Clinton, and that Jim Guy's writing a  
18 separate letter to Jeff on status. r.s.  
19       Your handwriting's pretty good, Mr.  
20 Shults.  
21       THE WITNESS: Okay.  
22       BY MR. BRENNER:

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1       Q    Do you recall this note of this phone  
2 conversation?  
3       A    I don't specifically recall it, but I'm  
4 sure that that note accurately reflects what it was.  
5       Q    I'm curious why Mr. Stern, did Mr. Stern  
6 contact you often for updates on the legislative  
7 initiative?  
8       A    No, not to my recollection.  
9       Q    And when he did call on you, and ask you  
10 for a report, how did you compile the information to  
11 give him a report?  
12       A    I probably called Jim Guy Tucker and said,  
13 what's happening.  
14       Q    And Mr. Tucker would tell you what was  
15 happening?  
16       A    Yes.  
17       Q    Did Mr. Tucker tell you about any  
18 discussions he had in relation to the legislative  
19 initiative?  
20       A    He did not.  
21       Q    But it appears that Mr. Tucker told you  
22 that he'd be writing a letter to Jeff on the status,

1 that's Jeff Stern?

2 A I believe if that's what that note says,  
3 that's what he told me.

4 Q Is there some reason that Mr. Tucker was  
5 contacting Mr. Stern directly, rather than going  
6 through you, his attorney?

7 A I don't know why. I guess that he would  
8 be more informed about how to address that question,  
9 without his telling me and letting me pass it on.

10 Q I have a letter on Castle Sewer and Water  
11 Corporation stationery, Jim Guy Tucker's signature,  
12 you are carbon-copied. It's dated April 27, 1987.

13 From the best I can tell, and correct me  
14 if I'm wrong, you received a phone call from Mr.  
15 Stern and talked to Mr. Tucker on the 27th. At that  
16 point, Mr. Tucker wrote a letter to Mr. Stern. Then  
17 you called Mr. Stern back on the 28th.

18 A Haven't we looked at that letter before?

19 Q No, we have not looked at that letter  
20 before.

21 A I thought I'd seen this but I'm sure  
22 that's the sequence of what happened.

---

1 Q The letter says:

2 Dear Jeff, Governor Clinton vetoed HB1780.  
3 He has told R.D. Randolph and the sponsors that the  
4 veto was an error he will correct if there's a  
5 special legislative session. Such a special session  
6 is generally expected but not guaranteed. If held,  
7 it could come as early as June or as late as  
8 September.

9 This legislation is needed critically for  
10 the utility. I suggest we complete our contract,  
11 execute it, and wait to see if a session develops.

12 The effectiveness of the contract will  
13 depend on the enactment of the legislation.

14 Do you recall this letter?

15 A Not specifically, but it sounds accurate.

16 Q Did Mr. Tucker discuss with you  
17 discussions he had with Mr. Randolph or the sponsors  
18 of the legislation that was vetoed?

19 A He did not.

20 Q I have a May 11, 1987 letter that you  
21 wrote to Mr. Stern where you cc'd Mr. Randolph, and  
22 you bcc'd Mr. Jim Guy Tucker.



1 It says:

2 Dear Jeff, this is in response to your  
3 letter of May 4, 1987 regarding Castle Sewer and  
4 Water Corporation. As things now look, it appears  
5 that the Arkansas legislature will meet in special  
6 session sometime during June or July. Hopefully the  
7 necessary legislation will be on the call for the  
8 special session.

9 In the meantime, as a sign of continued  
10 good faith, Castle Sewer and Water Corporation will  
11 begin some payment to Madison Guaranty Savings & Loan  
12 Association in June subject to the specific  
13 understanding that any such payment shall not be  
14 argued or offered as evidence of any admission of  
15 liability for such payments or any other liability  
16 from Castle Sewer and Water to Madison.

17 We will keep you advised of the  
18 developments as soon as we know something more  
19 definite about the special session of the  
20 legislation.

21 Do you have a copy of this letter?

22 A I've seen it.

1 What's the date?

2 Q May 11, 1987.

3 A I've seen it in my file and I know it's  
4 there somewhere.

5 Q Do you recall sending the letter?

6 A No, but I'm sure that I did.

7 Q Do you recall the substance of the letter?

8 A Yes, just what you've read.

9 Q Yes?

10 A Seemed an accurate statement.

11 Q I'm curious. Did you discuss with Mr.  
12 Tucker, prior to this letter, the contents of this  
13 letter?

14 A I'm sure I did. I was, at that point,  
15 acting as a conduit from Mr. Tucker to Mr. Stern on  
16 what was happening in regard to the legislation.

17 Q When did you start acting as a conduit?

18 A Almost from the beginning when Mr. Stern  
19 would ask what's the status of the legislation, he  
20 would contact me and I would contact Jim Guy Tucker,  
21 and report back what I was told.

22 Q Then my question is, why did Mr. Tucker

1 write directly to Mr. Stern if you were acting as his  
2 attorney?

3 A My answer is that I don't know.

4 Q Do you know why Mr. Tucker didn't address  
5 Mr. Stern's May 4, 1987 letter himself?

6 A I do not.

7 Q Have you heard from anybody about a  
8 meeting between the Governor and Jim Guy Tucker or  
9 R.D. Randolph?

10 A I have not.

11 Q How about a meeting between Bill Clinton  
12 and Representative Walker during May 1987?

13 A I do not know anything about such a  
14 meeting.

15 Q Do you know who Sam Bratton is?

16 A He's the Chairman of the Arkansas Public  
17 Service Commission at this time.

18 Q Do you know what his former position was?

19 A Not specifically. I think he was advisor  
20 to the governor.

21 Q If I told you he was chief counsel to the  
22 governor, would that refresh your recollection?

1 A I would state that if you're saying that's  
2 what his title was, that that's probably correct.

3 MR. BRENNER: Can we go off the record for  
4 a minute?

5 (Discussion off the record.)

6 BY MR. BRENNER:

7 Q Did Mr. Tucker ever mention to you a  
8 meeting that he had with Mr. Bratton?

9 A He did not.

10 Q Did Mr. Tucker ever mention that he had  
11 plans to discuss with Mr. Bratton the proposed  
12 legislation?

13 A He did not.

14 Q Did Mr. Tucker ever mention to you the  
15 fact that Mr. Bratton had concerns about the original  
16 legislation?

17 A He did not.

18 Q Did Mr. Tucker ever mention to you the  
19 fact that Mr. Bratton recommended to Governor Clinton  
20 a veto of the original legislation?

21 A He did not.

22 Q Mr. Bratton wrote a memorandum which you

1 do not have. It's dated May 19, 1987, and it says:

2 Sewer District Regulation Legislation

3 Jim Guy Tucker

4 R.D. Randolph

5 Mike Wilson

6 Bill Walker.

7 In the memorandum, it states: I have  
8 talked to Tucker about the situation. According to  
9 Tucker, Madison Guaranty Savings & Loan purchased the  
10 water and sewer company when it purchased the old  
11 Little Rock Industrial Park Area.

12 However, the S&L subsequently learned that  
13 it could not legally own and operate the utility  
14 company.

15 Therefore, the company was sold to a  
16 company organized by R.D. Randolph for the purpose of  
17 acquiring this water and sewer utility.

18 The problem arises from the fact that the  
19 utility, legally subject to regulation by the Public  
20 Service Commission, is prohibited from mortgaging  
21 utility property without permission of the Public  
22 Service Commission.

1 Madison Guaranty is the mortgage holder.  
2 Therefore in Tucker's opinion, the mortgage is  
3 invalid as the utility had not filed for regulation  
4 and obtained approval of the mortgage.

5 Is that a correct statement of the law?

6 A I have no idea.

7 Q Is that the argument you were asserting in  
8 terms of rescinding the original contract?

9 A No. I think that must have come up later.  
10 My arguments regarding rescinding the initial  
11 contract are I think set out in my initial letter to  
12 Board of Madison Guaranty to the effect that I think  
13 the primary deficiency was the number of hookups to  
14 the system.

15 Q That appeared to be the original  
16 reservation but at some point, as we discussed  
17 earlier, in I believe your 10/28 notes, you talk  
18 about registering the sewer and water. Jim Guy  
19 Tucker talks to you about registering the sewer and  
20 water company and then subsequent to that, prior to  
21 1987, there were concerns that in fact they didn't  
22 want to register with the Public Service Commission,

1 but rather they wanted legislation, is that correct?

2 A The time sequence is reflected in these  
3 various letters which we have discussed. I'm not  
4 sure of the dates but essentially I think what you  
5 said is correct.

6 Q So at some point, you were making, as part  
7 of your argument for rescission, the fact that the  
8 mortgage was invalid?

9 A I don't think I ever made that argument.

10 And the discussion of the law that Mr.  
11 Bratton is referring to, I don't think that was ever  
12 used in any way by me, because I don't think I  
13 understood that problem. I think the problem that I  
14 understood about registration was the rates that  
15 would be charged for the users of the system.

16 Q Well, did then Mr. Tucker ever discuss  
17 with you this theory?

18 A I don't believe he did.

19 Q So the only time you heard of this theory  
20 is through me right now?

21 A There were some earlier reference at some  
22 point about insurance. Whether that had anything to

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1 do with the validity of the mortgage, I'm not sure.  
2 But I think that you're telling me something that was  
3 not a concern of mine or not involved in my  
4 negotiations.

5 Q You're representing Mr. Tucker on the  
6 workout of the contract and, as I understand it, he  
7 never mentions to you one of the legal arguments for  
8 rescission of the original contract is the fact that  
9 there was no registration of the company prior to  
10 Madison obtaining the mortgage.

11 Is that correct?

12 A I think that's probably correct. That  
13 never entered into the negotiations as far as I  
14 recall.

15 Q Did the threat of litigation enter into  
16 negotiations?

17 A Yes.

18 Q At what point did the threat of litigation  
19 enter into negotiations?

20 MR. COLE: Let's be sure we all mean the  
21 same thing by the threat of litigation, because I'm  
22 not sure I know what that means in this context.



1 THE WITNESS: I would just say this, Mr.  
2 Brenner.

3 Early on, I think I indicated to the  
4 people at Madison that if some sort of a settlement  
5 wasn't worked out, that a suit would be filed to  
6 rescind the contract.

7 BY MR. BRENNER:

8 Q Okay. I'm going to turn your attention to  
9 the third paragraph of this memo, which you do not  
10 have. It's the May 19th, 1987 memo, and it says:

11 According to Tucker, if the legislation  
12 exempting certain water and sewer companies from PSC  
13 regulation is not enacted in the special session,  
14 litigation will probably be initiated between Madison  
15 Guaranty and the company owning the utility, and that  
16 the initiation of litigation between those two  
17 parties would likely negate the possibility of the  
18 utility expanding its operation through any sort of  
19 arrangements with the City of Wrightsville.

20 I assume the litigation would result  
21 because of the question of the validity of the  
22 mortgage, and the fact that the S&L is now being

1 operated under the close scrutiny of the FSLIC and is  
2 no longer controlled by McDougal et al.

3 Did Mr. Tucker ever mention the fact that  
4 he made this threat?

5 A No.

6 Q Were you cognizant of the fact if the  
7 legislation wasn't passed that litigation might well  
8 proceed?

9 A I assume that that was always a  
10 possibility, but at that point, Jeff Stern and the  
11 people at Madison and I, on behalf of Castle Sewer  
12 and Water, were working toward, with both parties,  
13 working to avoid litigation.

14 And I think the principal purpose on  
15 behalf of Madison was that they did not want to take  
16 the system back.

17 Q So litigation probably would not have been  
18 initiated?

19 A It would only have been initiated if  
20 further negotiations between Jeff Stern and me had  
21 broken down.

22 MR. COLE: Mr. Shults and Mr. Brenner as

1 well, on this point, it might be useful to take a  
2 look at the document that you previously showed to  
3 Mr. Shults, the May 4, 1987 letter from Mr. Stern at  
4 Ingersoll & Block to Mr. Shults because the second  
5 paragraph of that letter says something I think very  
6 similar to what Mr. Shults is saying.

7 It discusses, the first paragraph  
8 discusses the uncertainty regarding the special  
9 legislative session at which new legislation was to  
10 be introduced.

11 And then the second paragraph says, and I  
12 quote: I recognize that both parties are negotiating  
13 within good faith to consummate this deal. However,  
14 Castle Sewer and Water Corporation is in default on  
15 its loan, and since there is some cash flow from the  
16 operation of the utility, all such net operating  
17 income should flow to Madison under the terms of the  
18 loan.

19 I won't read the entire letter, but it  
20 seems to me that this letter reflects what Mr. Shults  
21 is saying, that the parties were trying to reach an  
22 agreement here and were well cognizant of the fact

1 that there was some uncertainty associated with this  
2 legislation.

3 Am I understanding you correctly on that  
4 point, Mr. Shults?

5 THE WITNESS: Yes, that's what I've been  
6 trying to say.

7 MR. COLE: I'm just trying to speed the  
8 process up, if I can.

9 THE WITNESS: Thank you.

10 BY MR. BRENNER:

11 Q Did Mr. Tucker ever mention to you the  
12 failure to register the mortgage -- excuse me. I'm  
13 going to go back to the first part of the memo.

14 Did he ever mention to you that the  
15 utility, subject to regulation by the Public Service  
16 Commission, is prohibited from mortgaging utility  
17 property without permission of the Public Service  
18 Commission?

19 A I don't remember specifically that we ever  
20 discussed that particular point.

21 Q So the validity of the mortgage was never  
22 really discussed in relation to the need to get

1 permission from the Public Service Commission?

2 A I don't believe it was discussed with me.

3 Q As an attorney, if you are representing  
4 the mortgagee, would you look into the legal  
5 ramifications of issuing a mortgage on a company that  
6 was required to register and get permission of a  
7 state regulatory authority?

8 A Well, I guess if I was a utilities lawyer,  
9 I might. But if I had a problem like that involving  
10 a utility, I would probably refer it to somebody who  
11 knew about utility law.

12 Q Was it part of yours or actual Mr.  
13 Tucker's strategy to put some pressure on Governor  
14 Clinton by targeting the litigation which may  
15 subsequently call into question his wife's law firm's  
16 legal work?

17 A Whose legal work?

18 Q Hillary Clinton's legal work.

19 A I never knew anything about that one way  
20 or the other. And as I've told you before, I was not  
21 privy to Mr. Tucker's efforts to get the legislation  
22 passed, except to periodically report to Mr. Stern .

1 what was happening.

2 And I do not know what kind of pressure he  
3 put on anybody.

4 Q At the beginning of June 1987, on the  
5 correspondence, there's a new name. I didn't know if  
6 you knew who it was. Mr. Michael O'Malley.

7 A He is or was at one point a lawyer in the  
8 Mitchell Williams Selig & Tucker law firm, I believe.  
9 Whether he was at that time, I'm not sure, but he was  
10 at some point.

11 Q I have a June 2nd, 1987 letter on Mitchell  
12 Williams Selig & Tucker letterhead, cc you're the  
13 second name on the cc.

14 A Okay. Who is it to?

15 Q To Jeffrey Stern from Loreta King.

16 A Who is she?

17 Q She's Mr. Tucker's personal secretary.

18 A Okay. What's she saying?

19 Q It's a letter to Mr. Stern that says:

20 Please find enclosed a copy of a proposed  
21 bill which we have received from the Governor's  
22 office. Mr. Tucker needs advice as quickly as



1 possible on the effect of this proposed bill.

2 Do you recall receiving this letter?

3 A I'm sure I did. It shows a copy to me.

4 Q Do you recall seeing the proposed  
5 legislation?

6 A I probably did. It probably did accompany  
7 that letter. I paid no attention to the proposed  
8 legislation and I quite possibly saw it.

9 Q So you had no interest in whether or not  
10 the legislation would be effective for your client?

11 A I'm representing Castle Sewer and Water in  
12 connection with the legislation or regulatory  
13 problems of the Public Service Commission, because I  
14 was not knowledgeable in that area. I represented  
15 them in what I previously described.

16 Q I appreciate that.

17 On that same date, there's a memorandum to  
18 Jim Guy Tucker from Michael O'Malley.

19 A Dated what?

20 Q June 2nd, 1987.

21 A I found that one.

22 Q The memo?

1 A Yes.

2 And I also see now the letter from Loreta  
3 King to Mr. Stern.

4 Q Do you recall seeing Loreta's letter?

5 A Yes.

6 Q And you stated earlier you didn't look at  
7 that proposed legislation?

8 A I did not.

9 Q Did you receive a copy of this memorandum  
10 to Jim Guy Tucker from Michael O'Malley?

11 A I did. I don't know why.

12 Q Did you read it?

13 A I probably glanced at it. But, you know,  
14 it didn't mean much to me. Looking at it now, it  
15 still doesn't.

16 Q I'm going to turn to a June 18, 1987  
17 letter written by you to Jeffrey Stern.

18 A Okay. Let me see if I -- I haven't found  
19 it yet.

20 Q Enclosed is Act 37 of 1987.

21 A I found it.

22 Q It says: Enclosed is a copy of Act 37 of



1 the First Extraordinary Session of the 76th General  
2 Assembly 1987.

3 A Right.

4 Q This legislation exempts from regulation  
5 small water and sewer utilities as public utilities  
6 under the jurisdiction of the Public Service  
7 Commission?

8 A Right.

9 Q You looked at Act 37?

10 A I doubt if I did.

11 Q Well, then, how did you come to write this  
12 letter?

13 A I would imagine that I was told that that  
14 was the effect of the Act.

15 Q A class C utility, under the above  
16 criteria, is one whose annual operating revenues are  
17 less than \$150,000. The letter seems fairly specific  
18 in terms of what the bill does.

19 Did you receive a letter from Jim Guy  
20 Tucker explaining the legislation?

21 A It may have been that that was the purpose  
22 of him sending me that memo of June 2, 1987 from

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1 Michael O'Malley to him. Because it has references  
2 to class C utilities and that sort of thing. And  
3 from that memo, I may have been able to report what  
4 happened to Jeffrey Stern.

5 Q But you stated earlier that you'd only  
6 glanced at the memorandum?

7 A Yes.

8 Q So you would have actually had to read the  
9 memorandum?

10 A Probably.

11 Q The last sentence in the second paragraph?

12 A Yes.

13 Q I would hope that this could be  
14 accomplished at the earliest possible time. In view  
15 of our delays which we've already experienced, I  
16 would hope that this could be accomplished at the  
17 earliest possible time.

18 A Yes?

19 Q This was late June 1987?

20 A Yes.

21 Q And the negotiations had already been  
22 worked out, hadn't they?

1 A Yes, I believe they had.

2 Q So I'm trying to figure this out.

3 At the end of June, you had already had a  
4 significant number of discussions with Jeffrey Stern,  
5 and you'd worked out the terms for the agreement?

6 A Yes.

7 Q And then four months later, you actually  
8 signed the agreement. Is that correct?

9 A Yes.

10 Q Do you recall why the delay?

11 A I think the Federal Home Loan Bank Board  
12 in Dallas had to approve the agreement before it  
13 could be executed on behalf of Madison Guaranty.

14 And I think that it took four months to  
15 get that approval.

16 Q And then between the time of the approval  
17 and the time of the actual signing of the mortgage --  
18 excuse me, of the note, that took another two months.

19 Is that correct?

20 A I don't know. When was the approval  
21 obtained?

22 Q The approval was obtained December 21st,

1 1987.

2 A That would indicate five or six months.

3 Q That's correct, but two months after the  
4 signed agreement.

5 A Well, I think the agreement was probably  
6 signed contingent on the Federal Home Loan Bank Board  
7 approving it, and you're telling me that approval  
8 came much later.

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## 1 EVENING SESSION

2 (6:00 p.m.)

3 BY MR. BRENNER:

4 Q I don't believe that's what I said.

5 What I said was was that the agreement was  
6 actually signed on the 5th day of October.

7 A 1987?

8 Q Yes.

9 A Okay.

10 Q So it obviously wasn't signed contingent  
11 upon approval; it was obviously signed after the  
12 approval or is that not correct?13 A When was the approval of the Federal Home  
14 Loan Bank Board obtained? I'm not sure I have that  
15 date.16 Q Well, I want to get back, before we get to  
17 the approval, I want to get back. I have a  
18 handwritten note of yours from July 2nd, 1987.19 A Okay. Is it on a small piece of paper or  
20 a big piece of paper?21 Q It's on a full legal size, but it's kind  
22 of a four and a half by four a half on the right hand

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1 side and about in the middle.

2 MR. BRENNER: We can go off the record.  
3 (Discussion off the record.)

4 BY MR. BRENNER:

5 Q I call Sarah Hawkins about signing the  
6 agreement today.

7 A Right, I see it.

8 Q Can you read that for me?

9 A I called Sarah Hawkins to see about  
10 signing the agreement today. She says they cannot  
11 sign it as drafted because there is no definite  
12 obligation for payment of principal.13 I explained that was to be paid out of  
14 NOI, which would be net operating income.15 She said they could not legally enter into  
16 such an agreement.17 Jeff Stern is supposed to get with me on  
18 what to do next.

19 I reported above to R.D. Randolph.

20 Q How come you didn't report to Mr. Tucker?

21 A I suppose, by that time, I was told to  
22 report to Mr. Randolph.

1 Q When I asked you whether or not the deal  
2 was pretty much done by the time of the passage of  
3 the legislation in June, it appears that the deal  
4 wasn't done, that there was a sticking point.

5 Is that correct?

6 A It looks like that is true.

7 Q And they wanted a definite obligation for  
8 payment of principal, is that correct?

9 A That's what appears to be the case.

10 Q What does that mean?

11 A Well, I think that the agreement, and I'd  
12 have to look at it to be sure, that if we negotiated  
13 it, provided for payment of the note out of the net  
14 operating income of Castle Sewer and Water.

15 She's raising a concern about the note  
16 having a definite promise to pay whether or not there  
17 is any agreement.

18 Q And your clients wouldn't agree, or would  
19 they agree to the repayment, regardless of NOI?

20 A You'll have to look at the final agreement  
21 to be sure.

22 Q We might as well pull out the final

1 agreement because we're going to be looking at that.

2 MR. COLE: I like the word final.

3 (Pause.)

4 THE WITNESS: All right, I think I have  
5 it.

6 BY MR. BRENNER:

7 Q What was the final resolution on the issue  
8 of guaranteed payment of principal?

9 A I'm looking to see if I can recall. You've  
10 looked at it since I have. What does it say?

11 Q It says a lot of things.

12 A What does it say about the point that  
13 you're raising? Where is that and where should I be  
14 looking?

15 Q I'm going to strike that question and get  
16 back to it.

17 A Okay.

18 Q You have handwritten notes that are dated  
19 7/6/1987. On top you have Jeff Stern. It says  
20 problems that arose in his meeting with Cuffman and  
21 Hawkins.

22 A Tell me again the date please.



1 Q 7/6/1987, July 6th.

2 A I don't have it yet.

3 Q No problem.

4 (Pause.)

5 A Yes, I see a long, yes, I see it.

6 Q Is that your r.s. initial about the middle  
7 of the page?

8 A That is.

9 Q Okay.

10 On the very bottom of the page, you have  
11 Capital Management Company Co. note payable \$150,000.

12 A Yes?

13 Q Did you know at that time who Capital  
14 Management was?

15 A Yes, I knew by that time, I think, who it  
16 was.

17 Q What was your understanding of who owned  
18 Capital Management?

19 A I don't know who owned it, but I think  
20 that David Hale ran it.

21 Q What was your understanding of what  
22 Capital Management Company was?

1 A A loan company, I believe.

2 Q Did you know that Capital Management had  
3 received funds from the Small Business  
4 Administration?

5 A I did not.

6 Q Did Mr. Tucker ever mention to you the  
7 fact that Capital Management Company was loaning many  
8 of his various interests money for the companies to  
9 invest?

10 A No. Except that I had seen earlier the  
11 loan application from Castle Sewer and Water to  
12 Capital Management.

13 As I indicated, I was aware of that phone  
14 application. I don't think I knew until later, and  
15 apparently in July of '87, that the loan was actually  
16 outstanding.

17 Q So this was your first contact with the  
18 fact that there's a loan outstanding to Capital  
19 Management for \$150,000?

20 A As far as I know.

21 Q If you could read number 1?

22 A Yes.

1 Q There's some scratching out, and I'm  
2 curious if you could read that to me.

3 A What to do about debt to Hale's company  
4 that is not have him pay off and leave Madison out.  
5 They can cure default. I have to find out what are  
6 terms on this. I think that's what I was finding  
7 out, that there was such an outstanding loan.  
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1 Q Do you recall what you found out about  
2 this \$150,000?

3 A I don't think I found out any more than  
4 that note indicates; that there was such an  
5 outstanding loan. I do not know what happened to it.

6 Q What do you mean by, not have him paid off  
7 and leave Madison out?

8 A I'm not sure. I'm trying to decipher.  
9 "What to do about debt to Hale's company." I don't  
10 know what that means, frankly. I can't recall.

11 Q In fact, one of your options was rescision.

12 A Right.

13 Q One of the terms of the rescision would be  
14 that the \$150,000 would be repaid to Castle Sewer and  
15 Water with interest.

16 Is that correct?

17 A I believe that's right.

18 Q So was there concern for Madison even as  
19 late as July 6, 1987, about what to do in terms of  
20 Hale; and that is that they didn't want to have David  
21 Hale paid off and leave Madison out?

22 A It must have been a concern of Mr.

1 Cuffman's that Jeff Stern was conveying to me at that  
2 time. With Jeff Stern's name at the top, this  
3 indicates what he was saying to me on July 6, 1987.  
4 And I guess that he was saying there was a problem  
5 that Cuffman and Hawkins had pointed out to him about  
6 that.

7 Q Do you recall what was being said at the  
8 time about the Hale loan, about the repayment  
9 concern?

10 A I do not, and I had nothing to do with  
11 that loan, and I don't know what happened to it.

12 Q You were involved to the extent that you  
13 knew there was a \$150,000 down payment that was part  
14 of the negotiations for the workout.

15 A Absolutely. But I did not know until  
16 apparently at this time that there was also a  
17 \$150,000 loan from Capital Management to Castle Sewer  
18 and Water.

19 I did not in my negotiations, my contact  
20 with the file, I did not know where the \$150,000 came  
21 from, unless it went from Mr. Tucker and Mr. Randolph  
22 to Castle Sewer and Water, and from Castle Sewer and

1 Water to Madison.

2 Q With the exception of number one, could  
3 you read the rest of the note?

4 A Number two says, "On refinancing, they get  
5 paid as if there was a sale." And I have down there  
6 "No."

7 I guess what happened there is that Jeff  
8 Stern outlined all these conditions to me, and I must  
9 have discussed them with either Randolph or Mr.  
10 Tucker.

11 Q Do you recall whether it was Mr. Randolph  
12 or Mr. Tucker?

13 A I do not.

14 Q Was it Mr. Randolph who usually had the  
15 final say on the negotiations, as opposed to Mr.  
16 Tucker -- or as opposed to Mr. Randolph?

17 A I think it was probably both of them. But  
18 I do not know how they dealt with each other.

19 Q In terms of how Mr. Tucker dealt with you,  
20 did he portray to you, or give you an indication,  
21 that he was controlling the negotiations from the  
22 point of view of Castle Sewer and Water?

1 A Yes. But he told me that this was the  
2 position that Castle Sewer and Water would take. I  
3 assume that was correct, the same way if Mr. Randolph  
4 told me that this was a position that Castle Sewer  
5 and Water would take, I assumed that was correct.

6 Q Who told you more often that this was the  
7 position of Castle Sewer and Water?

8 A I suppose Mr. Tucker probably more, but  
9 I'm not sure about that.

10 Q Can you continue to read the note, please?

11 A Number three says, "Examination of books  
12 and records." And I have "Okay." I guess that means  
13 that that was all right.

14 "Paragraph 9..." -- number four says,  
15 "Paragraph 9 provides for appraisers if they cannot  
16 agree on price." And I have "No" written by that. I  
17 don't know what was to be appraised. I guess the  
18 property.

19 Q Was price still a sticking point as late  
20 as July 6, 1987?

21 A You'd have to look at paragraph 9 of the  
22 agreement. That may have had something to do with

1 right of first refusal on the part of -- by the same  
2 bank.

3 Q That is. Thank you.

4 A Is that correct?

5 Q We believe that to be correct, yes.

6 A Okay. I'm not sure. Shall I go on?

7 Q Yes, please.

8 A Number five says, "Regulations will not  
9 allow for interest only for ten years. Some  
10 obligation for payment on principal after three  
11 years. I suggested 30-year amortization, plus a  
12 balloon in 20 years. He said he felt sure a balloon  
13 would have to be in 10 years. Not too positive on  
14 that."

15 So I guess that was a question that he was  
16 raising from their regulatory standpoint. And I  
17 don't know; I'd have to look at the agreement to see  
18 what was ultimately decided on that.

19 Number 6 asks, "What to do about adding  
20 difference between 6 percent and 10 percent each  
21 year." I had "No" written beside that.

22 MR. COLE: Does that say "What to do about



1 adding" or "What to do about addressing?" It looks  
2 to me like it says, "What to do about addressing  
3 differential between 6 percent and 10 percent each  
4 year."

5 THE WITNESS: We were talking about my  
6 writing, and I can't even read my own writing. I'm  
7 not sure. It may be "addressing." I think that's  
8 probably what it is.

9 MR. COLE: It makes more sense to me to  
10 read it "What to do about addressing differential  
11 between 6 percent and 10 percent each year." But you  
12 wrote it.

13 THE WITNESS: I expect that's probably  
14 right. I wrote it, but I think you may be more  
15 nearly correct than I was.

16 BY MR. BRENNER:

17 Q And then your initials?

18 A Yes.

19 Q And then on the right-hand side --

20 A Down at the bottom?

21 Q Yes, sir, where it says --

22 A Where it says "\$100 per month?"

1 Q Yes, sir.

2 A Right.

3 Q Then finally, the last thing is --

4 A "Capital Management Company, note payable,  
5 \$150,000."

6 Q Did you initial these before you wrote  
7 that?

8 A I probably did, and I probably had asked  
9 what is the note they're talking about in number one.  
10 Probably what they said they were talking about -- I  
11 guess that note was payable from Capital Management  
12 to Madison.

13 (Pause.)

14 Q Did you continue to deal with Mr. Stern  
15 from Ingersoll and Block throughout the consummation  
16 of the workout?

17 A Yes.

18 Q He stayed as the primary contact for you  
19 for Madison?

20 A Yes.

21 Q I want to talk to you about the  
22 differences in the workout between the final

1 agreement and the original agreement, the original  
2 agreement being the two notes dated February 28,  
3 1986, and the amended note, which is dated December  
4 17, 1987.

5 A I'm looking for that note. I'm not sure I  
6 have it. Yes, I see it; okay. I see the December 21  
7 -- I've got the December 21, '87 note.

8 Q You see the December 21, '87 note. Is  
9 that what you said?

10 A I do.

11 Q What I'd like to do is just go over some  
12 of the differences between the original agreement and  
13 the amended note. And the amended note extended the  
14 maturity of the indebtedness from 1991 to December of  
15 1997.

16 Is that correct?

17 A Yes.

18 Q But it did not permit the acceleration of  
19 the principle in the event of default on the monthly  
20 interest installments?

21 (Pause.)

22 You won't find the acceleration clause,

1 because in the amended note or the final note, there  
2 isn't one. But in the original note, dated February  
3 28, 1986, there is one.

4 A All right. I'll accept your  
5 representation.

6 Q Okay.

7 Further, the final note didn't allow  
8 Madison to recover attorney fees in the event that it  
9 had to sue or issue legal proceedings to collect the  
10 debt. Is that correct?

11 A It looks to be correct.

12 Q As you understand it, the acceleration  
13 clause and the legal fees are fairly standard  
14 contract clauses in most commercial mortgages, most  
15 commercial notes?

16 A In any routine bank loan, that would  
17 probably be true.

18 Q Do you recall discussions of changing  
19 these two, of not including them, in the amended  
20 note?

21 A No.

22 Q I'm sorry?

1 A I do not. I do not recall any discussions  
2 of that.

3 Q Do you recall writing, or having Mr.  
4 Tucker write, that these two provisions should not be  
5 included in the amended note?

6 A It's possible. I don't recall that.

7 Q And you don't know why they weren't  
8 included in the amended note?

9 A I don't recall, no. I'm not sure whether  
10 I drafted that note or Mr. Stern drafted it.

11 Q I just have one last question. And that  
12 is, I wanted to confirm that you're not aware of any  
13 work done by Hillary Clinton or the Rose Law Firm  
14 with respect to Castle Sewer and Water or the  
15 Industrial Development Corporation.

16 Is that correct?

17 A That is correct.

18 MR. BRENNER: We're finished with our  
19 questions for now. Thank you.

20 THE WITNESS: What do I do now?

21 EXAMINATION

22 BY MR. COLE:

1 Q Mr. Shults, this is Lance Cole, the  
2 Democratic counsel. I apologize. This has already  
3 taken a great deal more time than I thought it would.  
4 I think you know, sir. It's 25 after 6:00 now. I'll  
5 try to be brief, but I do have a few questions for  
6 you. The way our procedure works here, my turn comes  
7 after the majority has finished.

8 In terms of your representation of Castle  
9 Water and Sewer, you testified that you undertook  
10 that representation in July 1986?

11 A That's correct.

12 Q You were approached by Mr. Tucker and  
13 asked to represent that corporation?

14 A Yes.

15 Q Who owned the corporation at the time?

16 A I believe that Mr. Tucker and Mr. Randolph  
17 owned it. That was my understanding.

18 Q To summarize your testimony -- and please  
19 correct me if I mischaracterize it in any way -- you  
20 were retained by Mr. Tucker to work to try to resolve  
21 a potential dispute between Castle Sewer and Water  
22 and Madison Guaranty and its affiliates concerning

1 the financing on Castle Water and Sewer's purchase of  
2 the utility from Madison Guaranty.

3 Is that correct?

4 A That's correct, although I think I would  
5 characterize it as, I was retained by Mr. Tucker to  
6 represent Castle Sewer and Water in connection with  
7 that negotiation.

8 Q Yes, sir, that is what I meant to say.

9 In particular, the dispute involved an  
10 agreement that Mr. Tucker had advised you he had  
11 reached with Mr. McDougal?

12 A That is correct.

13 Q Pardon me?

14 A Yes.

15 Q Regarding the guarantee of a number of  
16 hookups to the system that in turn would have  
17 provided income. Is that correct?

18 A Yes. That was an essential part of the  
19 agreement as I understood it.

20 Q At the time you were retained, Mr.  
21 McDougal had been removed from Madison Guaranty by  
22 federal regulators, and the institution was under the

1 control of new management reporting to the federal  
2 regulators.

3 Is that correct?

4 A That is correct.

5 Q And Mr. Stern of Ingersoll and Block had  
6 been retained by new management to represent Madison  
7 Guaranty on the same issue?

8 A Yes.

9 Q I'm not going to belabor the point  
10 concerning the validity or invalidity of the  
11 agreement between Mr. McDougal and Mr. Tucker,  
12 because in my view it's not really germane to what  
13 this committee's investigating, and in any event I  
14 think it's been thoroughly explored.

15 What I'd like to focus on is the state  
16 legislation involving the utility. There came a time  
17 when you understood from your client that an effort  
18 would be made to have legislation enacted that  
19 essentially would have excused or removed Castle  
20 Water and Sewer from regulation as a public utility  
21 in Arkansas.

22 Is that right?



1 A I'm not sure if it would have removed it  
2 from the regulation of the Public Service Commission.  
3 But it would have removed, as I understood it, the  
4 way in which the rates -- or, it would have changed  
5 the way in which the rates that would be charged by  
6 Castle Sewer and Water were determined.

7 Q Yes, sir. I think that's a more accurate  
8 way of describing it. I agree with that.

9 If I could direct your attention to a  
10 document that Mr. Brenner previously referred you to,  
11 a September 24, 1987 memorandum from Jim Guy Tucker  
12 to Mike Wilson regarding proposed legislation --

13 MR. BRENNER: A what?

14 MR. COLE: A September 24, 1987 memorandum  
15 to Mike Wilson from Jim Guy Tucker.

16 MR. BRENNER: February.

17 MR. COLE: I'm sorry. I'm reading it  
18 wrong. It says "2/24" and I read it incorrectly.

19 BY MR. COLE:

20 Q February 24, 1987.

21 A I'm looking for that again, Mr. Cole.

22 Q I apologize for making you go back.

1 A That's all right.

2 (Pause.)

3 Q Just to save time, while you're looking  
4 for that, if you would look for -- in the materials  
5 you produced to us, there are copies of the actual  
6 legislation itself, including House Bill 1780 and  
7 House Bill 1047. I want to ask you about those as  
8 well in connection with this memorandum.

9 A Yes.

10 (Pause.)

11 All right. I have the memorandum. I  
12 don't have the bill.

13 Q We'll focus on the memorandum for the  
14 moment.

15 This I understand to be a memorandum from  
16 Mr. Tucker to Mr. Wilson, who was a state legislator  
17 in Arkansas.

18 A Yes.

19 Q Is that correct?

20 A That's correct.

21 Q Now, in your discussions -- and I realize  
22 from your prior testimony that they were limited --

1 but in your discussions with Mr. Tucker about this  
2 legislation, did he ever indicate to you that he had  
3 any special influence over Governor Clinton in terms  
4 of having legislation enacted?

5 A He did not indicate that to me.

6 Q Was there anything in his conduct or  
7 manner in dealing with you on this proposed  
8 legislation to lead you to believe that that was the  
9 case?

10 A No.

11 Q I would ask the same questions with regard  
12 to Mr. Randolph, whether Mr. Randolph either said  
13 anything or did anything that would indicate to you  
14 that he had special influence with Governor Clinton.

15 A He did not.

16 Q Finally, just to be complete, did either  
17 Mr. Tucker or Mr. Randolph indicate that Mr. McDougal  
18 had any special influence over Mr. Clinton,  
19 recognizing that at this time Mr. McDougal was no  
20 longer at Madison Guaranty?

21 A They never indicated anything like that to  
22 me.

1 Q And as I look at the documentation -- and  
2 I don't intend, unless you need to, sir, take the  
3 time to force you to pull this back out. But, for  
4 example, I'm looking at a February 13, 1987 letter to  
5 Mr. Stern from yourself. And it states on the last  
6 page, after discussion of the proposed workout, it  
7 states "The above-proposed workout is conditioned on  
8 the proposed legislation being adopted, so the future  
9 operation of the sewer and water system can be in  
10 compliance with Arkansas law."

11 I only read that to you, sir, because it  
12 indicates to me the understanding of the parties, as  
13 evidenced by this writing, was that there was  
14 uncertainty as to whether or not this legislation  
15 would indeed be passed. Is that correct?

16 A That's certainly correct.

17 Q Then there came a time that the  
18 legislation was vetoed. My understanding was that  
19 that was in early April 1987, but I'm not going to  
20 take the time now to dig out the documentation.

21 Is that consistent with your recollection?

22 A I know that it was vetoed, but I don't

1 recall when.

2 Q I believe Mr. Brenner asked you this  
3 before. But do you have an understanding as to why  
4 the governor vetoed the legislation?

5 A I did not.

6 Q Have you located the copy from the  
7 documents that you provided to the Special Committee  
8 of the bill that was vetoed, which is House Bill  
9 1780?

10 A I have House Bill 1047. I guess that's  
11 the one that passed.

12 Q Yes, sir.

13 A And I have 1780.

14 Q As quickly as possible -- because I am  
15 trying to move along here --

16 A You don't have to hurry.

17 Q I'm actually doing it for myself, sir.

18 But thank you.

19 (Laughter.)

20 BY MR. COLE:

21 Q It's an hour later here than it is there.

22 A I know it.

1 Q If you would look at the second paragraph  
2 of the February 24, 1987 memorandum from Mr. Tucker  
3 to Mr. Wilson that I referred you to a moment ago --

4 A Yes.

5 Q -- that paragraph states, "The bill  
6 attempts to deal only with the Castle Sewer and Water  
7 system by being limited to 'private' companies within  
8 ten miles of a city with a population in excess of  
9 140,000 (which I assume includes Little Rock but only  
10 Little Rock. We may need to check that population  
11 number.)"

12 Do you see that paragraph, sir?

13 A Yes.

14 Q If you then turn to House Bill 1780 --

15 A Yes.

16 Q -- and you look at the definition of  
17 "utility," which is Section 1(a) --

18 A Yes.

19 Q -- and the last, the next-to-the-last  
20 sentence of that defines "utility" to include a  
21 utility which provides service to customers within  
22 ten miles of the corporate limits of a city of the

1 first class, which has a population in excess of  
2 140,000 persons --

3 A Yes.

4 Q -- is it your understanding from looking  
5 at these documents that this bill was drafted in such  
6 a manner that it would apply only to Castle Sewer and  
7 Water Corporation, based upon this memorandum and the  
8 language in the bill itself?

9 A I'm not sure that it wouldn't have applied  
10 to others. But certainly it would apply to Castle  
11 Sewer and Water. It's possible that it could have  
12 applied to others that fell within that limitation.

13 Q In any of your discussions with Mr. Tucker  
14 or Mr. Randolph regarding this legislation, and in  
15 particular the veto of the legislation, did they  
16 mention something called a prohibition against  
17 special and local legislation under the Arkansas  
18 constitution?

19 A They didn't discuss that with me.

20 Q So you're not aware of any provision in  
21 the Arkansas constitution that prohibits passage of  
22 special and local legislation?

1 A I know that there is such a provision in  
2 the Arkansas constitution. But they never discussed  
3 the application of that provision to any of this  
4 legislation with me.

5 Q Mr. Bratton has testified -- and I won't  
6 read into the record his testimony -- that that was  
7 the reason the legislation was vetoed. But you have  
8 no knowledge of that?

9 A I know that there's such a provision in  
10 the constitution. But I have no knowledge that that  
11 entered into the veto.

12 Q If you could look at bill 1047 --

13 A Yes.

14 Q -- which is headed "First Extraordinary  
15 Session," if you compare the definition of the  
16 utility in that bill, you see that it differs from  
17 the definition section of the bill that we just  
18 reviewed?

19 A I do.

20 Q I take it that you have no reason to  
21 believe that the fact that this bill was signed into  
22 law by Governor Clinton was for any reason other than



1 the fact that it changed the definition of the  
2 utility?

3 A I'd have to say, Mr. Cole, that I didn't  
4 compare the two bills, and I don't know what entered  
5 into Governor Clinton's change of mind.

6 Q So you really can't provide any testimony  
7 for this committee on that point, then?

8 A No.

9 Q I think what you can perhaps provide  
10 testimony on, in terms of what you observed in your  
11 work for Castle Sewer and Water, was whether or not  
12 there was any understanding that it was a certainty  
13 that this new legislation would be adopted.

14 Do you recall, after the veto of the  
15 legislation, and prior to the adoption of the new  
16 legislation, whether the understanding of yourself  
17 and your clients was that there was some uncertainty  
18 as to whether or not the legislation would be passed?

19 A There was, not only on my part, but on the  
20 part of Jeff Stern and Madison as well. Certainly, I  
21 wasn't involved in the legislation enough to know  
22 whether there was uncertainty or not.

1 I'm assuming because of the earlier veto  
2 there probably was uncertainty.

3 Q Bear with me for a moment. I'm looking  
4 for a document here.

5 (Pause.)

6 Thank you, sir. I found the document I'm  
7 looking for.

8 I have an April 10, 1987 letter that you  
9 wrote to Mr. Randolph and Mr. Tucker. Mr. Brenner  
10 previously showed this document to you. I'll read  
11 you the second paragraph, which says, "I do not  
12 believe the changes which she has indicated present  
13 any significant problems. But this whole agreement  
14 will have to be reconsidered if House Bill 1780  
15 cannot somehow be resurrected."

16 A Yes.

17 Q Does that indicate that you were  
18 communicating to your clients that the agreement  
19 would be contingent upon whether or not the  
20 legislation, new legislation, could be passed?

21 A It was contingent on it, and it was yet to  
22 be worked out at that point.

1 Q So in April, there was uncertainty as to  
2 whether or not new legislation could be worked out.  
3 Is that correct?

4 A That's certainly correct.

5 Q Turning your attention to a May 4, 1987  
6 letter that Mr. Stern sent to you, he advised you in  
7 the first paragraph of that letter, "However, I do  
8 not believe the Federal Home Loan Bank of Dallas will  
9 approve the agreement and workout proposal as it  
10 presently stands, due to the uncertainty of the  
11 period of time before the special legislative session  
12 convenes."

13 So you also were aware of uncertainty as  
14 to when the special legislative session would  
15 convene. Is that correct?

16 A That's correct. I think that probably we  
17 had discussed going ahead and seeing if we could  
18 execute the agreement and make it contingent on the  
19 passage of the legislation. He's telling me, I  
20 guess, that that would not be possible because of the  
21 Federal Home Loan Bank Board.

22 Q Am I correct in understanding, then, that

1 the position of you and your clients was that whether  
2 or not this agreement could go forward was indeed  
3 contingent upon whether the legislation would be  
4 passed, and there was no assurance that that would  
5 take place?

6 A I believe that's accurate.

7 Q I think you've testified that neither Mr.  
8 Tucker nor Mr. Randolph ever told you anything about  
9 any meetings they had with Mr. Clinton, Governor  
10 Clinton, or Governor Clinton's staff about this  
11 proposed new legislation.

12 A I was not told about or aware of any such  
13 meetings.

14 Q So you can't provide any testimony on that  
15 subject, either?

16 A I cannot.

17 Q And despite the fact that Mr. Brenner read  
18 to you some staff memorandums concerning those  
19 meetings, what Mr. Brenner read to you did not  
20 refresh your recollection in any way about those  
21 meetings?

22 A I never knew anything about those

1 meetings, and I never knew anything about that  
2 memorandum until he read it to me a little while ago.

3 Q In general, other than the veto of the  
4 first legislation, which was House Bill 1780, and  
5 then the subsequent signing into law of the new bill,  
6 which was House Bill 1047, do you have any knowledge  
7 of any involvement by then-Governor Clinton in any  
8 matters pertaining to Castle Sewer and Water?

9 A I know of nothing.

10 Q And neither Mr. Tucker nor Mr. Randolph  
11 ever told you anything about involvement by Governor  
12 Clinton, other than as I've just stated?

13 A They did not.

14 Q And with regard to the financing that the  
15 documents indicate was provided to Castle Water and  
16 Sewer by Mr. Hale's company, Capital Management  
17 Services, you knew nothing about that financing until  
18 the discussion in about July of 1987 that is  
19 reflected in your July 6, 1987 notes.

20 Is that your testimony?

21 A I still do not know the details of the  
22 financing.

1 MR. BRENNER: Could you read back the last  
2 question and last answer?

3 (The reporter read the record as  
4 requested.)

5 THE WITNESS: I would also point out that  
6 in that July 6, 1987 memorandum, I am apparently  
7 referring to the debt of Capital Management to  
8 Madison. That seems to have been the reference to  
9 the \$150,000 debt. It seems to be a debt brought on  
10 Capital Management to Madison, not a debt from Castle  
11 Sewer and Water to Capital Management.

12 BY MR. COLE:

13 Q I take it then, sir, that neither Mr.  
14 Tucker nor Mr. Randolph ever discussed with you the  
15 financing that may or may not have been provided by  
16 Capital Management to Castle Water and Sewer?

17 A They did not.

18 MR. BRENNER: Lance, can we clarify why  
19 this would even come to his attention if it was not  
20 related to Castle Sewer and Water?

21 MR. COLE: I think he's testified that he  
22 doesn't know anything about this beyond what his



1 notes reflect, and he's really not sure what his  
2 notes reflect.

3 But, if you want to try to clarify beyond  
4 that --

5 THE WITNESS: I think I heard that  
6 comment.

7 If we look back at my memorandum of July  
8 6, 1987, that had to do with a phone call from Mr.  
9 Stern to me. I think he's raising the question in  
10 that phone call that Capital Management owes Madison  
11 \$150,000, and he's concerned somehow or other that  
12 that get paid. That's the way I interpret that  
13 memorandum.

14 MR. BRENNER: Why would he share that with  
15 you, I guess, if it has no relation to Castle Sewer  
16 and Water, is what I'm trying to figure out.

17 THE WITNESS: I think he's trying to  
18 guarantee that whatever this deal works out -- I'm  
19 looking back at that memorandum, and it says "What to  
20 do about the debt to Hale's company? Not have paid  
21 off and leave Madison out."

22 I guess he's saying that he doesn't want a

1 debt to Hale's company, which would have been a debt  
2 of Castle Sewer and Water, paid to Hale's company  
3 without requiring Hale to in turn pay the \$150,000 on  
4 a note payable from Capital Management to Madison.  
5 That's what it looks like Mr. Stern was saying to me.

6 BY MR. COLE:

7 Q Mr. Shults, I'm not trying to complicate  
8 this or prolong this further.

9 The reason I raised the question is that  
10 one of the subjects in Senate Resolution 120 which  
11 creates this Special Committee is the operations of  
12 Mr. Hale's company. And I'm just trying to ascertain  
13 whether you have any testimony to provide on that  
14 subject. My understanding of your testimony to this  
15 point has been that you do not, and that was my whole  
16 point in asking the question.

17 A I know nothing about his operations or  
18 his company. I've never met him or talked to him.  
19 I've never had any contact with anyone in any way  
20 representing Capital Management.

21 Q Did Mr. Tucker ever indicate that there  
22 was any connection between himself, Mr. Hale, and



1 Governor Clinton in a business sense?

2 A Not to me.

3 Q Did he ever mention any meetings among  
4 himself, Mr. Hale, and Governor Clinton?

5 A Never.

6 Q I take it that Mr. Randolph also never  
7 mentioned any meetings between Mr. Hale and Governor  
8 Clinton?

9 A That's correct.

10 Q Again, I think Mr. Brenner asked you this  
11 question, but I want to make sure it's been covered.

12 You don't have any knowledge of any other  
13 transactions that Mr. Tucker engaged in that involved  
14 Mr. Hale or his company, Capital Management Services?

15 A I do not.

16 Q Finally, you testified that you were not  
17 aware what law firm, if any, represented Castle Water  
18 and Sewer in the purchase of the utility from Madison  
19 or Madison's affiliates.

20 Isn't that correct?

21 A There was a gap in what you were asking.

22 Were you referring to the Rose Law Firm?

1 Q My question was more general than that.

2 The question was whether you were aware  
3 what law firm, if any, represented Castle Water and  
4 Sewer in the purchase of the utility from Madison  
5 Guaranty or its affiliates.

6 A Right. I was not aware of that.

7 Q I think you've testified the same with  
8 regards to the representation of Madison Guaranty.  
9 In other words, you do not know.

10 A I do not know who represented the parties,  
11 either party, in that transaction.

12 Q And to the best of your recollection, the  
13 Rose Law Firm was never mentioned by anyone in  
14 connection with these Castle Water and Sewer matters  
15 that you've testified to today?

16 A The name of the Rose Law Firm was never  
17 mentioned any time to me in any way in connection  
18 with any of this.

19 Q Was Hillary Rodham Clinton's name ever  
20 mentioned in any way in connection with any of these  
21 transactions?

22 A No.

1 MR. COLE: I don't think I have anything  
2 further. Give me one moment to consult with my  
3 colleague here. Perhaps the end is in sight.

4 (Pause.)

5 MR. COLE: I don't have any further  
6 questions, Mr. Shults.

7 I will tell you on the record, and also  
8 advise Mr. Gicale and Mr. Brenner, that I will  
9 discuss with Mr. Giuffra, the chief counsel to the  
10 Banking Committee, the health problems you described  
11 to us at the outset of your deposition. And we'll  
12 discuss the need for you to appear here next week.  
13 And someone on the majority staff, I'm sure, will get  
14 back to you on that.

15 THE WITNESS: All right. And I suppose,  
16 for my file, it would be a good idea for one of you  
17 to fax to me a copy of Senate Resolution 120, since I  
18 do not have that.

19 MR. COLE: I'm sure Mr. Brenner would be  
20 happy to send you a copy of that.

21 MR. BRENNER: My pleasure.

22 THE WITNESS: All right.

1 Again, I would point out that I think I've  
2 told you everything that I possibly could tell in  
3 regard to this.

4 MR. BRENNER: I have nothing further for  
5 you, Mr. Shults. I appreciate the time you spent.

6 THE WITNESS: All right.

7 MR. BRENNER: Off the record.

8 (Whereupon, at 6:50 p.m., the taking of  
9 the instant deposition ceased.)

10

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12 -----  
13 ROBERT SHULTS

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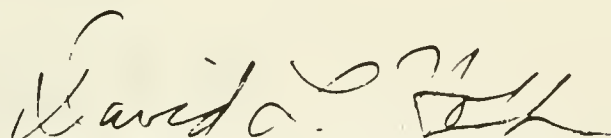
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, DAVID L. HOFFMAN, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the  
District of Columbia

My Commission Expires JUNE 30, 2000





**DEPOSITION OF MARGARET A. WILLIAMS  
IN RE: S. RES. 120**

---

**THURSDAY, FEBRUARY 8, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of MARGARET A. WILLIAMS, called for examination pursuant to notice of deposition, at 2:14 p.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.  
Majority Associate Special Counsel  
VIET D. DINH, Esq.  
Majority Associate Special Counsel  
JAMES S. PORTNOY, Esq.  
Minority Associate Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

EDWARD S.G. DENNIS, JR., Esq.  
Morgan, Lewis & Bockius, L.L.P.  
1800 M Street, NW  
Washington, DC 20036-5869  
On behalf of the Deponent.

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## 1 PROCEEDINGS

2 Whereupon,

3 MARGARET A. WILLIAMS

4 was called as a witness and, having first been duly  
5 sworn, was examined and testified as follows:

## 6 EXAMINATION

7 BY MR. O'CALLAGHAN:

8 Q Good afternoon. My name is Michael  
9 O'Callaghan. I am associate special counsel for the  
10 Majority of the Special Committee.11 This is a deposition which is being  
12 conducted pursuant to Senate Resolution 120. The  
13 resolution establishes a special committee  
14 administered by the Banking Committee to conduct an  
15 investigation of Whitewater Development Corporation,  
16 Madison Guaranty Savings & Loan Association, Capital  
17 Management Services, Incorporated, and other related  
18 matters. This deposition is in advance of public  
19 hearings. And there is a possibility you may be  
20 called to testify at those public hearings, as I am  
21 sure you are aware.

22 MR. DENNIS: That's not certain, is it,

1 Mike? If you have a chance, the deposition will be  
2 adequate.

3 BY MR. O'CALLAGHAN:

4 Q To my left is Jim Portnoy, who is associate  
5 special counsel for Minority. We will both be asking  
6 a series of questions today.7 You were just sworn in; you are testifying  
8 under oath. If you don't understand a question I  
9 pose, let me know and I will rephrase it. If you  
10 need a break at any time, let us know and we will be  
11 happy to go off the record and take a break.12 The stenographer is preparing a record of  
13 questions and answers. The deposition will be  
14 treated agency committee confidential until the  
15 commencement of hearings. Prior to the hearings, you  
16 will receive a letter from the committee telling you  
17 you may come to the Senate and review the transcript  
18 and make any note of corrections for transcription on  
19 an errata sheet. If you are called to testify, you  
20 will be permitted to have a copy of your deposition  
21 prior to hearing.

22 You may be represented by counsel. Are you

1 represented by counsel today?

2 A Yes, I am.

3 MR. O'CALLAGHAN: Counsel, would you please  
4 identify yourself.

5 MR. DENNIS: My name is Edward S.G. Dennis,  
6 Jr., Philadelphia.

7 BY MR. O'CALLAGHAN:

8 Q Is counsel representing you in your  
9 personal capacity or official capacity or both?

10 MR. DENNIS: Both.

11 BY MR. O'CALLAGHAN:

12 Q Objection to the form of the question will  
13 be noted for the record, and counsel may object on  
14 grounds of privilege or relevance, and the committee  
15 Chairman may rule on objections where the witness  
16 refuses to answer a question.

17 Have you spoken with anyone, other than  
18 your counsel, prior to this deposition about the  
19 deposition?

20 A No. I had to alert my office that I was  
21 going to be gone.

22 Q Have you had any discussions with anyone

---

1 about what the possible substance of the deposition  
2 might be?

3 A No, I have not.

4 Q Did you do anything to prepare for the  
5 deposition?

6 A I spoke with my lawyer, I looked at my  
7 calendar -- and I don't know if you call it a  
8 review -- I had my past depositions.

9 Q So you consulted your calendar and your  
10 past depositions; is that correct?

11 A Yes, it is.

12 Q Anything else in preparation?

13 A No.

14 Q Could you please state and spell your full  
15 name for the record.

16 A Margaret A. Williams, M-a-r-g-a-r-e-t, A,  
17 W-i-l-l-i-a-m-s.

18 Q Do you have any nicknames?

19 A Maggie.

20

21

22 Q And your present business address?



- 1 A The White House, Washington, D.C.  
2 Q What is your present position?  
3 A Assistant to the President, and chief of  
4 staff to the First Lady.  
5 Q And how long have you been in that  
6 position?  
7 A God, three -- three years.  
8 Q What did you do prior to that?  
9 A Prior to that, I was graduate student at  
10 the University of Pennsylvania.  
11 Q Do you supervise anyone in your current  
12 position?  
13 A Yes, I do.  
14 Q How many people do you currently supervise?  
15 A About 16 people.  
16 Q Anyone who directly reports to you?  
17 A Directly reports, maybe five or six.  
18 Q To the best you can, name the five or six  
19 you believe have a reporting relationship to you.  
20 A Okay. The office manager, my assistant.  
21 Q If you could give names as well as titles.  
22 A The office manager, Evan Ryan. Debbie
- 

- 1 Both, my assistant.  
2 Q How do you spell the last name?  
3 A B-o-t-h.  
4 Q She is your assistant?  
5 A Yes.  
6 Q Okay.  
7 A The press secretary -- I want to just check  
8 with -- I'm having difficulty understanding the  
9 question.  
10 Q Oh, sure.  
11 A Of reporting directly to me?  
12 Q I am just trying to get a feel for -- in  
13 your position -- who you supervise and who has a  
14 daily or direct reporting relationship with you in  
15 the office, if that's clear.  
16 A It is much more collegial than that. I  
17 have a deputy. I have a deputy chief of staff,  
18 Melanne Verveer.  
19 Q Spell that?  
20 A M-e-l-a-n-n-e, V-e-r-v-e-e-r.  
21 Lisa Caputo, the press secretary,  
22 C-a-p-u-t-o; Ann Stock, the social secretary, A-n-n,

1 S-t-o-c-k; Neel Lattimore, L-a-t-t-i-m-o-r-e; Patty  
2 Solis, who is actually on the advance and scheduling  
3 staff, but works on Mrs. Clinton's schedule  
4 specifically, S-o-l-i-s. Karen Finney, the deputy  
5 press secretary; Alice Pushkar, P-u-s-h-k-a-r, the  
6 director of correspondence for the First Lady;  
7 Capricia Marshall, the personal assistant to the  
8 First Lady. I think that's it.

9 Q Who do you directly report to?

10 A Leon Panetta, the two deputy chiefs of  
11 staff, Erskine Bowles -- not Erskine but it was  
12 Erskine Bowles and Harold Ickes, and Mrs. Clinton.  
13 I-c-k-e-s.

14 Q Anyone else?

15 A No.

16 Q Where is the physical location of your  
17 office?

18 A I share an office with my assistant in the  
19 Old Executive Office Building, room 100. And I have  
20 an office in the west wing, which is the second floor  
21 of the White House.

22 Q Does anyone else share that office with you

---

10

1 in the west wing, or is that yours alone?

2 A Unofficially, it is mine alone, but when I  
3 am not there, anyone can use it.

4 Q How much time do you spend in each office,  
5 generally?

6 A It just --

7 Q Does it vary?

8 A It just varies.

9 Q To the best you can answer, during the  
10 course of a workday, how much time would you spend in  
11 your OEOB office?

12 MR. DENNIS: You mean like  
13 percentage-wise?

14 THE WITNESS: On average, I don't -- I  
15 spend a lot of time in the Old Executive Office  
16 Building. But it really just depends what I am  
17 working on at that time, where the number of meetings  
18 that I have during that day are.

19 I would say I spend probably 75 percent in  
20 the Old Executive Office Building.

21 BY MR. O'CALLAGHAN:

22 Q Would the other 25 percent be in the actual

1 White House, or the White House and other places?

2 A Yes, the only other place would be in the  
3 White House.

4 Q That would be at meetings and also in your  
5 west wing office?

6 A Yes.

7 Q When you have meetings in the White House,  
8 where do they typically take place, if typical is a  
9 good word? If it is not, tell me the different  
10 places you have had meetings.

11 A Mr. Panetta's office; the Roosevelt Room is  
12 probably the most typical place for the meetings.

13 Q Where is that located?

14 A It is the first floor of the White House,  
15 west wing. Oh, I spend time in the east wing, in the  
16 east wing, Ann Stock.

17 Q In her office, is that --

18 A Not necessarily in her office, but in the  
19 state rooms, and then I meet with Mrs. Clinton.

20 Q And her office is in the east wing?

21 A In the east wing, but typically we meet in  
22 the map room or the second floor residence.

1 Q Where is the map room?

2 A It's what's considered the ground floor of  
3 the residence.

4 Q Anywhere else?

5 A Then just whoever might invite me to their  
6 office, but that could be -- there is another  
7 conference room, room 180 in the Old Executive Office  
8 Building.

9 Q Meetings on the second floor of the  
10 residence, where do those normally take place?

11 A The dining room or the west wing sitting  
12 room.

13 Q Now when you normally refer to the east  
14 wing and the west wing, is that generally a reference  
15 to office areas in the White House, or is there also  
16 east and west denominations in the residence?

17 A Oh, I guess there are. But I tend to think  
18 of the residence as east wing and the White House  
19 proper, or where the offices are, as west wing.  
20 Although there are a number of offices in the east  
21 wing, too.

22 Q Is the residence located in the west side

1 of the White House also?

2 A No, no.

3 Q Excuse my ignorance.

4 A No, that's okay. I am still figuring it  
5 out.

6 Q You just mentioned the second floor of the  
7 dining room and the west wing sitting room. So the  
8 west wing sitting room, is that office space or  
9 residence?

10 A That's residence and so is the dining  
11 room.

12 Q Anywhere else on the second floor you had  
13 meetings?

14 A No, that seems to be --

15 Q Did you have any meetings on the third  
16 floor?

17 A Yes.

18 Q Where would those meetings take place or  
19 where have they taken place?

20 A In the -- in Mrs. Clinton's -- oh, well, I  
21 call it the computer room, where her computer room  
22 is, where she worked on her book.

---

1 Q Anywhere else?

2 A A long time ago they -- they might have had  
3 meetings in the solarium, but that was very early in  
4 the administration.

5 Q More than a year ago?

6 A I think so. Oh, yes, I am sure.

7 Q Was there a specific time where they  
8 stopped having meetings there?

9 A No. I mean these were -- these were more  
10 general staff meetings; they weren't necessarily  
11 Mrs. Clinton's meetings. They were just more  
12 general.

13 Q Is there a reason why they stopped having  
14 general staff meetings up there or just --

15 A No, I just -- I don't know.

16 Q They just stopped meeting there. Okay.

17 During the course of the last year, since  
18 say -- let's say from January 1995 to today, how many  
19 occasions have you had to go to the second floor of  
20 the residence, if you can give me an approximation?

21 A In January -- I'm sorry, what did you say,  
22 the beginning of this year or --



1 MR. PORTNOY: Maybe it would be easier for  
2 her if we asked if she goes daily or weekly or  
3 monthly.

4 BY MR. O'CALLAGHAN:

5 Q Yes, we can go from there. Do you know  
6 over the last year?

7 A I would not have a specific number.

8 Q Could you give me a ballpark, whether it is  
9 weekly or monthly or twice a year, more than that?

10 A At least -- at least once if not twice a  
11 week.

12 MR. DENNIS: This is the second floor of  
13 the residence?

14 THE WITNESS: Yes.

15 BY MR. O'CALLAGHAN:

16 Q What would be the purposes of those visits?

17 A Well, we try to have a daily scheduled  
18 meeting with Mrs. Clinton and Patty Solis. I say  
19 once or twice a week because we figure out if we  
20 really need to meet or if we can do it on the phone  
21 or whatever. But I would say at least once or twice  
22 a week we try to get over there to meet in person.

1 Q When you say "daily scheduled meetings,"  
2 you are talking about preparing the daily schedule?

3 A Yes, not that day, but the following day.  
4 And looking out a month or two, if we can, depending  
5 on what the schedule is.

6 Q Just so it is clear, it would be a weekly  
7 meeting discussing the daily schedule?

8 A It's --

9 Q Do you understand my confusion?

10 A Okay. We should probably call it a  
11 scheduling meeting --

12 Q Okay.

13 A -- where Mrs. Clinton's scheduler and  
14 myself and Mrs. Clinton tried to meet to talk about  
15 the weeks -- the next day's schedule, the week's  
16 schedule and the month's schedule. We aren't as  
17 efficient as we might want to be, but that's  
18 certainly the aim.

19 Q Any other meetings other than the  
20 scheduling meetings that you have had there?

21 A On the second floor?

22 Q Correct.

1       A    We try and have a -- let's see, be at least  
2 a twice a month, although it varies depending on  
3 Mrs. Clinton's travel schedule -- a meeting that  
4 includes not only Patty Solis, but the social  
5 secretary, the press secretary, the deputy to the  
6 chief of staff, to discuss -- to review, actually,  
7 pending invitations, and to work out, you know, other  
8 issues, scheduling or whatever.

9       Q    How about over the course of last year, how  
10 many times have you been in the third floor  
11 residence?

12       A    Over the course of?

13       Q    The past year.

14       A    I think probably in September, although I  
15 am not certain exactly when, of '95. September and  
16 October and November I've probably been there the  
17 most, because this was during the period that  
18 Mrs. Clinton was working on her book, and so she  
19 was -- she was there quite a bit.

20       Q    Okay. You said she was working on the book  
21 in the computer room on the third floor?

22       A    Right.

1       Q    What is the physical location of the  
2 computer room?

3       A    I'm sorry?

4       Q    What was the physical location of the  
5 computer room she was working in?

6       A    It's the room next to the book room.

7       Q    Is it catty-corner or next to it?

8       A    Well, it's -- there is a corner. I am bad  
9 at directions, but this would be the book room.

10       Q    That will not show up on the transcript.  
11 Do they intersect at a right angle or are they --

12       A    They don't intersect at all. They are two  
13 separate rooms; they are two separate rooms.

14       MR. PORTNOY: Do they share a common wall?

15       THE WITNESS: One is on -- yes, I'm just  
16 trying to -- because there is an exercise room.

17       They share a corner, but not a common  
18 wall. They share a corner but not a common wall.

19       MR. O'CALLAGHAN: Here is a schematic for  
20 you and your counsel.

21       MR. DENNIS: What is this? The third floor  
22 plan, I show that on the bottom.

1 BY MR. O'CALLAGHAN:

2 Q I show you a one-page document which is a  
3 floor plan for the White House. And I think it is an  
4 antiquated one, so I don't think all the walls that  
5 are -- that appear there are necessarily still  
6 there. I think it is actually a floor plan from the  
7 Truman presidency, was the most recent one we could  
8 get. So it is the third floor and there are a number  
9 of demarcations in the different rooms.

10 A I wouldn't know them by numbers. But hey,  
11 what about that (indicating)?

12 Q I would like to get first your description  
13 of it. I am not sure.

14 A Okay.

15 Q And we can read this together.

16 A Okay. Get me to where the elevator is on  
17 the third floor.

18 Q That's where I'm not sure. If you look at  
19 the shape of the White House, it is a square with a  
20 round portion in the middle, which I believe is the  
21 south side of the White House. And there is a room  
22 there that says sun room, I think, and it says 337;

1 that may be the solarium, I'm not -- maybe that will  
2 help your frame of reference.

3 A Okay, that helps, yes. Okay.

4 So, this is all corridor.

5 Q You're pointing to the middle?

6 A Yes, this is all corridor.

7 Q It says corridor?

8 A Right, and I am just trying to locate the  
9 elevator, because that would help me to show -- but  
10 let me just say that my -- this -- guys, I'm really  
11 not sure on this print, but let me tell you what I  
12 think. 31 --

13 Q 95?

14 A 3195, if this is the solarium.

15 Q 3195 would be on the eastern portion of the  
16 building, but I don't know if that helps or  
17 confuses. Actually it would be the western wing,  
18 excuse me the western part of the building.

19 A This is my worst thing, maps. Okay. I am  
20 just going to do my best here.

21 Q Sure.

22 A If this is 319A and if this is the

1 elevator --

2 Q That's the box which has a penthouse door  
3 and roof above it, 336, which you said might be the  
4 elevator?

5 A Yes, I am trying to find you.

6 MR. PORTNOY: The part of the map to which  
7 Ms. Williams has pointed is typical of the depiction  
8 of an elevator on a floor plan, so her judgment may  
9 be correct.

10 MR. O'CALLAGHAN: And stairs next to it,  
11 too.

12 THE WITNESS: Okay, that makes sense. So  
13 this 319A would be the book room.

14 BY MR. O'CALLAGHAN:

15 Q Okay.

16 A And this room next to it, although I can't  
17 figure out what number it represents.

18 Q 323?

19 A Well, maybe all that is 323.

20 Q On the south side underneath where it says  
21 promenade?

22 A Yes, if I am looking at -- yes.

---

22

1 This would be the -- I'm sorry. This would  
2 be the computer room, and so -- right, and then this  
3 would be a -- if this is -- this is -- there is a  
4 little hall here.

5 Q You're pointing to what number?

6 A 354 seems like a little hall, 352 there is  
7 a bathroom.

8 MR. PORTNOY: That's also consistent with  
9 the diagram.

10 THE WITNESS: Yes, that is right.

11 Then there is a little stretch of hall  
12 across. And this room, I believe, 3 -- I don't know  
13 if it is 322 or 351.

14 MR. PORTNOY: That appears to be 322; 351  
15 appears to be a closet.

16 THE WITNESS: I think that's an exercise  
17 room and --

18 BY MR. O'CALLAGHAN:

19 Q All these walls may be there now.

20 A Yes, that is the exercise room.

21 Q Is it larger than what appears on the map,  
22 do you think?



1 A No. There is the bathroom -- I know there  
2 is a bathroom; I know there is a hall here.

3 Q That opens up to an exercise room?

4 A There is -- all this is hall -- where I am  
5 showing this red here -- all this is hall and there  
6 is a room here.

7 Q 354 to 353, right?

8 A There is a room here. Actually, I don't  
9 remember what's in it. For some reason I think -- I  
10 don't remember what's in that room.

11 Q That's 322.

12 A And this is an exercise room, I don't know  
13 what the number is here.

14 MR. PORTNOY: Is that 345 that you are  
15 pointing to?

16 THE WITNESS: I am trying to follow it  
17 myself.

18 MR. O'CALLAGHAN: That would be the corner  
19 of that portion of the building.

20 THE WITNESS: Right.

21 This is all purely guesses based on this  
22 diagram, I have to tell you.

1 MR. DENNIS: Can I ask, because I am a  
2 little confused; I thought the question was to  
3 locate, at least essentially, two rooms. One was the  
4 book room and the other was the computer room. Do  
5 you see the compute -- what you now call the computer  
6 room?

7 THE WITNESS: I think that's 323.

8 MR. DENNIS: 323 is the computer room and  
9 what shows on the diagram as 319A, you think, is  
10 where the book room is, what you are calling the book  
11 room.

12 THE WITNESS: Right.

13 BY MR. O'CALLAGHAN:

14 Q You know there is an exercise room off of  
15 that?

16 A Somewhere.

17 Q Adjacent to the book room?

18 A Adjacent to a hall that gets you to the  
19 exercise room, a short hall.

20 And that's --

21 MR. DENNIS: That way we can keep the  
22 numbers, because some of that may be very

1 speculative, the rooms, the walls may change.

2 MR. PORTNOY: If I could ask one clarifying  
3 question.

4 MR. O'CALLAGHAN: Sure.

5 MR. PORTNOY: Is the exercise room in the  
6 corner of the building or is it not in the corner?

7 THE WITNESS: Well, it is in the corner,  
8 but I have never really viewed the whole exercise  
9 room. I know the bathroom and I know looking in  
10 there --

11 MR. PORTNOY: You don't know if it has  
12 windows on two separate walls?

13 THE WITNESS: I don't know. I can't  
14 remember.

15 BY MR. O'CALLAGHAN:

16 Q Have you ever used the exercise room?

17 A No.

18 Q Can you get to the exercise room through  
19 any other entrance other than going through the book  
20 room?

21 A That's the only one I knew of.

22 Q Who uses the exercise room that you know

1 of?

2 A Anyone who is staying on the third floor,  
3 guests, the First Family.

4 Q Does the First Family use it on a daily  
5 basis?

6 A I wouldn't know that.

7 Q Do you have any idea how regularly they use  
8 it?

9 A No.

10 MR. DENNIS: Can I have my client perhaps  
11 write on this particular document "book room" and  
12 "computer room," so at least those two I can  
13 establish without having to refer back and forth.

14 MR. O'CALLAGHAN: Sure.

15 THE WITNESS: Okay.

16 MR. DENNIS: Just those two.

17 (Witness complied.)

18 BY MR. O'CALLAGHAN:

19 Q You said generally you thought September  
20 and October and November of 1995 you spent more time  
21 on the third floor in the computer room assisting the  
22 First Lady?

1 A In the computer room or in the book room.

2 Q What type of assistance were you lending  
3 her with the book writing?

4 A I was reading and being critical of her  
5 drafts.

6 Q You were providing editorial assistance?

7 A Some might call it that, yes. Yes.

8 Q Were you doing any of that work before  
9 September of 1995?

10 A No.

11 Q How do you know you weren't doing work on  
12 that before September?

13 A Well, I know in August I was on vacation  
14 the last few weeks -- September -- the last few weeks  
15 of August.

16 And then I know the first week of September  
17 she was in Beijing, so we very much focused on that.

18 Q Did you do any work on it before you went  
19 on vacation; did you help her out with that?

20 A No. No.

21 MR. PORTNOY: Do you know if she was  
22 working on the book in the book room prior to your

1 vacation?

2 MR. O'CALLAGHAN: I thought you said she  
3 was working in the computer room.

4 THE WITNESS: Computer room.

5 BY MR. O'CALLAGHAN:

6 Q Before you went on vacation, was she  
7 working on the book?

8 A She could have been. I just don't recall  
9 it.

10 MR. DENNIS: Is the question whether or not  
11 my client was working with her on the book prior to  
12 my client's vacation and the First Lady going to  
13 Beijing, or is the question whether or not the First  
14 Lady was working on the book prior to the vacation?

15 BY MR. O'CALLAGHAN:

16 Q The question I asked: Were you working on  
17 it prior to you going on vacation. And I think you  
18 said --

19 A No.

20 Q Then Mr. Portnoy asked had the First Lady  
21 been working on the book before you went on vacation  
22 in August?

1       A    And I said -- I can't speak to that. I  
2   can't speak to that.

3       Q    Do you know when she first started working  
4   on the book?

5       A    May and June. May and June, but that  
6   doesn't necessarily mean that she was working on it  
7   in the computer room at that point.

8       Q    Just so it is clear, May and June of 1995?

9       A    Yes.

10      Q    What makes you think she started working on  
11   it at that time?

12      A    Just because I know that she was looking  
13   for materials, looking for reports and things. I had  
14   very little involvement with the book before, you  
15   know, September.

16      Q    Is there anyone else who was working with  
17   her on the book?

18      A    I don't know all who she talked to during  
19   that period. I only know -- Becky Saletan, her  
20   editor, for sure.

21      Q    This will probably help you also focus in,  
22   whether there was anyone working with her on the book

---

1   on the third floor?

2       A    Becky Saletan, her editor.

3       Q    Anyone else?

4       A    She had a lot of people in and out. I  
5   don't know if they were working on the book or  
6   guests, but I do know Becky Saletan, for sure, her  
7   editor was there.

8       Q    Anyone else she told you was helping her  
9   work on it?

10      A    In September, I know it was Lisa Muscatine.

11      Q    And who is she?

12      A    She works in speech writing.

13      Q    Anyone else?

14      A    That's all I can think of, that I knew  
15   about. That's all I can remember. As I said, I --  
16   she's -- I got to the book at the draft point. I  
17   wasn't really so much involved before September.

18      Q    When you started working on it in September  
19   in the draft form, had the main body of the book  
20   already been written, or was there still writing  
21   going on?

22      A    There certainly was still writing going on



1 that she was doing, but, you know, there were parts  
2 of the book, I mean, that had been written.

3 Q You were reviewing and editing, how many  
4 pages would you say had been drafted?

5 A I don't know.

6 Q A hundred, less than a hundred?

7 A There were a lot of pages.

8 Q So a considerable amount of work had  
9 already been done on the book?

10 A There were a lot of pages.

11 Q Were these in computer form; were they  
12 handwritten, computer form?

13 A Both her handwriting and some typed.

14 Q Was some of the information stored in the  
15 computer, in the computer room?

16 A Yes.

17 Q Do you know if it was on the hard drive or  
18 on disks?

19 A Oh, probably both. I don't know.

20 Q Do you know how much time the First Lady  
21 spent working on the book in July and August of 1995,  
22 in the computer room?

1 A No.

2 Q Just generally, this may help, during July  
3 and August of 1995, do you know if the First Lady was  
4 working on the book on a daily basis, once a week,  
5 twice a week?

6 A I don't know, because I was in my office.  
7 Like I said, we had quite a lot to do.

8 Q Generally you are pretty familiar with her  
9 schedule during that time period; July and August?

10 A Yes.

11 Q Generally you know what her schedule is  
12 because you work on it?

13 A Except I don't -- in terms of what her  
14 private time is is really her private time, how she  
15 uses it.

16 Q Did you have any discussions with her  
17 during that time period about work she was doing on  
18 the book?

19 A Yes, I always would say how is it going.

20 Q And she said she was busy working on it?

21 A She said it is going, it is going.

22 Q Did she do any work on it that you are

1 aware of other than in the computer room?

2 A I don't know. I wasn't there.

3 Q These are all questions, I am just trying  
4 to see what your knowledge is.

5 A It was reported that she was working on it  
6 during her vacation in Wyoming or something.

7 Q And when was that vacation?

8 A I would have to check. I don't know  
9 exactly, but --

10 MR. PORTNOY: I understand that would have  
11 been mid-August of 1995, although I don't have the  
12 exact date.

13 THE WITNESS: It could have been. Whenever  
14 they --

15 BY MR. O'CALLAGHAN:

16 Q It probably was a good time for you to go  
17 on vacation, when she was on vacation?

18 A No.

19 Q Or no. Were you on vacation the same time?

20 A We may have overlapped a day, but I think I  
21 went after her. I am not sure. I have to check my  
22 calendar.

1 Q Did the First Lady do any work on her book  
2 in the book room?

3 A Not when I was there.

4 Q How about when you weren't there, do you  
5 have any knowledge of whether she worked on it?

6 A No. There was a fax machine there.

7 Q In the book room?

8 A Yes.

9 Q Did you ever use that fax machine?

10 A No. Her editor used it, so I may have  
11 taken something out of it.

12 Q You might have retrieved the documents for  
13 the editor from it?

14 A Yes.

15 Q Do you have a specific recollection of  
16 doing that?

17 A No.

18 Q And that's -- the editor's name was -- what  
19 is it again?

20 A Becky Saletan, S-a-l-e-t-a-n.

21 Q Was that fax used for receiving documents  
22 for anyone other than her editor?

1 A I don't believe so. As I understood it, it  
2 was Simon & Schuster's.

3 Q It was their fax machine?

4 A Yes.

5 MR. PORTNOY: Off the record.

6 (Discussion off the record.)

7 BY MR. O'CALLAGHAN:

8 Q Were there any materials or documents  
9 related to the book writing exercise that were kept  
10 in the book room?

11 A Oh, yes.

12 Q What type of things were stored in the book  
13 room in relation to the book?

14 A Oh, the drafts. That was all.

15 Q Is that where the drafts were generally  
16 kept?

17 A I don't know generally. She had a lot of  
18 them in her -- in the computer room.

19 Q Both in computer and book room. What else  
20 was kept in the book room?

21 A Books.

22 Q A lot of books; were there a lot of

1 bookshelves in the room?

2 A Yes, books everywhere.

3 Q Could you give a general description of how  
4 that room was set up? We can narrow this down to  
5 July through August of 1995.

6 A Books everywhere, on shelves, maybe some  
7 books on the floor, videos.

8 Q Was there a TV there?

9 A No.

10 Q Any furniture?

11 A Oh, tables, maybe the fold-up kind.

12 Q Like card tables or round tables?

13 A Just lunch room tables, I think.

14 Q Any chairs that went with the tables?

15 A That went with them, no --

16 Q Or sat around them?

17 A It was pretty much like a storage room  
18 where people grabbed a chair.

19 Q Was there room to sit and work at any of  
20 the tables if you were --

21 A Yes, if you went and got a chair.

22 Q Did you do any of your editing or your

1 commenting in the book room?

2 A Sometimes.

3 Q Anyone else work in there?

4 A Lisa, definitely, but -- work in the book  
5 room, there were people in and out of the book room.

6 Q Who else used the room?

7 A Well, there's entrances, I mean right  
8 behind the book room is the linen room, I guess.

9 MR. DENNIS: What period of time are we  
10 talking about?

11 THE WITNESS: The only period I would know  
12 about would be September.

13 MR. DENNIS: September until when?

14 THE WITNESS: October, early November.

15 MR. PORTNOY: I believe there is a possible  
16 confusion on the record then. Mr. O'Callaghan had  
17 asked you about the July through August time period,  
18 and I believe you have been answering based upon your  
19 knowledge for September forward. Could you clarify  
20 whether you have any knowledge as to the use of the  
21 book room, or whether you used it during the July  
22 through August time period?

1 THE WITNESS: No, the time period in which  
2 I was in the book room was September to November.

3 BY MR. O'CALLAGHAN:

4 Q Were you up on the third floor in the  
5 July/August time period, 1995?

6 A I don't recall. I don't recall being up  
7 there. I don't recall being up there.

8 MR. O'CALLAGHAN: Why don't we go off the  
9 record for a second. You can hand off the  
10 transcript.

11 (Discussion off the record.)

12 BY MR. O'CALLAGHAN:

13 Q Right before we went off the record, I  
14 asked you whether you had been on the third floor in  
15 the July through August 1995 time period. And you  
16 said that you didn't recall being up there, and you  
17 were continuing your answer.

18 A Yes, I didn't recall being up there. It is  
19 September when I remember being there.

20 Q From your knowledge of who has access from  
21 the room, did you spend any time in there before July  
22 and August 1995?



1 MR. PORTNOY: You are speaking of the book  
2 room?

3 MR. O'CALLAGHAN: The book room.

4 THE WITNESS: The book room? No, there  
5 would be no reason to, really.

6 BY MR. O'CALLAGHAN:

7 Q Had you ever been in it before you came  
8 back from your vacation?

9 A Much earlier, almost in another year when  
10 it was just totally full of boxes and stuff. And --

11 Q Do you recall when that was; can you put a  
12 year on it?

13 A No, it just seemed like at the beginning.

14 MR. DENNIS: The beginning of the term?

15 THE WITNESS: The term.

16 MR. PORTNOY: The beginning of the  
17 administration which began in January of 1993.

18 THE WITNESS: Yes. I mean, it just seems  
19 to me, in the very beginning, that it was -- it was a  
20 storage room. I just remember it being that, because  
21 most of that floor seemed to be storage.

22 BY MR. O'CALLAGHAN:

1 Q Do you know what was stored up there?

2 A No.

3 Q Do you know if gifts were kept there or  
4 documents?

5 A No.

6 MR. DENNIS: Is it no, they weren't kept  
7 there, or no, you don't know?

8 THE WITNESS: I just -- that wasn't my  
9 area. I don't know.

10 BY MR. O'CALLAGHAN:

11 Q So you didn't know what was in there?

12 A No.

13 Q Did there come a time when it stopped being  
14 used as a storage room?

15 A Well, let's see. Based on my looking at it  
16 in September, it still could have used a lot more  
17 attention before it became a real room.

18 Q So it still had some boxes and stuff in it  
19 in September or --

20 A Yes, or in -- I don't remember everything  
21 that was in it. I remember books, bookshelves,  
22 videos, videotapes, still -- pictures that hadn't

1 been hung leaning against the wall; it wasn't a room  
2 to work in.

3 Q Before that or -- even in September?

4 A Even in September, which is kind of -- I  
5 don't -- I don't know when it stopped being purely  
6 storage. I only know that in September and probably  
7 in October, when I spent more time in that room, that  
8 there were still pictures up against the wall. There  
9 may have been a couple of stacks of books someplace  
10 else. There were -- there were -- you know.

11 Q Did there come a time when the room was  
12 cleaned up to provide a work space for the First Lady  
13 working on the book; do you know?

14 A I don't know when that was.

15 Q But do you know if that happened? Is that  
16 why the room was cleaned up?

17 A I don't know.

18 MR. PORTNOY: If we could -- do you know if  
19 to this day the room has ever been cleaned up?

20 THE WITNESS: I know that the room looks  
21 different than when I first saw it at the very  
22 beginning, where it just seemed dark and full of

1 boxes.

2 MR. DENNIS: At the beginning of the  
3 administration, you mean?

4 THE WITNESS: I'm sorry, at the beginning  
5 of the administration.

6 It request -- it had -- you know, it has  
7 nice shelves.

8 BY MR. O'CALLAGHAN:

9 Q I don't want to belabor the decorations of  
10 the room, but the first time you saw it, you said it  
11 was dark and full of boxes. Then in September when  
12 you were there, it had tables in it and there was a  
13 space where you could work at the tables; is that  
14 right -- and the drafts were kept there and the book  
15 and people working on them?

16 A Yes, but I do want to make clear, though,  
17 that you had -- there was a feeling you were in a  
18 storage room.

19 Q So it was more of a makeshift workplace,  
20 like a temporary work station; is that fair?

21 A Yes.

22 Q Do you know when the fax machine was put in

1 there?

2 A No.

3 Q But it was there as of September?

4 A That's the first time I recall seeing it.

5 Q Do you know when the First Lady first began  
6 receiving faxes from her editors at Simon & Schuster?

7 A No.

8 Q Does that help?

9 A No, I don't know.

10 Q Did you see any drafts of the book before  
11 you went on vacation?

12 A Yes. Yes.

13 Q When did you see those?

14 A I took it with me. When I was advancing  
15 the Beijing trip was the first time I had ever read  
16 it.

17 Q Was that a trip to Beijing, or was that  
18 done in the U.S.?

19 A No, Beijing.

20 Q You were doing the actual physical events?

21 A Yes.

22 Q Had that --

1 A Was that Beijing or was that South  
2 America? I was in a foreign land.

3 Q You don't recall which?

4 A No. I mean, I am sure if I look at my  
5 calendar I can, but I remember I just -- I remember  
6 being somewhere else. I remember being in a hotel  
7 room, reading.

8 Q If we need to ask you at a later date,  
9 maybe ask you to refresh your recollection with a  
10 calendar, Counsel, if you could, just to put yourself  
11 in time and place as to when you were reading for the  
12 first time, the draft of the book.

13 A All right.

14 Q To your recollection, had the draft been  
15 worked on by anyone else, did you have a fresh copy;  
16 do you know whether it had been worked on by the  
17 editors yet?

18 A I can't remember. None of them ever looked  
19 fresh. They were always scribbled on. That's my  
20 general recollection.

21 Q Do you recall if it was on fax paper or --  
22 copied on fax paper?

1 A No.

2 Q I am just trying to ascertain as to  
3 whether -- if you were working on a draft that had  
4 already been edited by Simon & Schuster.

5 A I have no idea.

6 Q Okay. And you were talking about  
7 September -- your knowledge of that area -- the book  
8 room, the computer room -- is based generally on the  
9 time period September, October, November?

10 A October mostly, but yes.

11 Q Is that the same thing for the computer  
12 room, or had you been up there previously?

13 A Oh, well, before it was the computer room,  
14 it was the room where I put Vince Foster's documents.

15 Q And when was that?

16 A The personal documents. I would have to  
17 refresh my memory.

18 MR. DENNIS: Under Nussbaum's direction.

19 THE WITNESS: Right.

20 MR. DENNIS: It was Thursday the 22nd.

21 THE WITNESS: 199-.

22 MR. DENNIS: '93.

1 THE WITNESS: '93.

2 MR. DENNIS: July.

3 MR. PORTNOY: That would be July?

4 MR. DENNIS: Thursday, July 22, 1993.

5 BY MR. O'CALLAGHAN:

6 Q What was in the room at the time you put  
7 the documents in there?

8 A Boxes.

9 Q So was it another storage space?

10 A Yes.

11 Q Were there a lot of boxes in there when you  
12 put the documents in?

13 A There seemed to be a lot of documents,  
14 correct.

15 Q Did you put all the documents just in that  
16 computer room, or were they put anywhere else?

17 A When I came from the west wing, they -- the  
18 box of files were put into a closet in the computer  
19 room.

20 Q Did that closet have a lock on it?

21 A It -- there was a key to it.

22 Q Did you lock it after you put them in or



1 did it stay open?

2 A I assume that either I locked it or Carolyn  
3 Huber locked it.

4 Q Did she bring the documents up there with  
5 you or did she accompany you?

6 MR. PORTNOY: Mike, could we go off the  
7 record for a second.

8 (Discussion off the record.)

9 MR. O'CALLAGHAN: Why don't we go back on  
10 the record.

11 BY MR. O'CALLAGHAN:

12 Q I guess I asked you if Ms. Huber  
13 accompanied you when you brought the documents up to  
14 the room.

15 A As I recall, she either came with me to the  
16 room -- because she had to show me where the closet  
17 was.

18 Q Did she have to unlock the closet? When  
19 you got up there, was it open?

20 MR. DENNIS: I think she has been asked  
21 this before. I think we've -- if for some reason her  
22 previous deposition isn't adequate on it at this

1 point, maybe we can explore it further; the detail as  
2 to who locked the closet, who unlocked the closet,  
3 was Ms. Huber there, where in the closet was the box  
4 placed, in great detail.

5 BY MR. GIUFFRA:

6 Q I will be happy to move on. I don't want  
7 to duplicate what you've already testified to.

8 Other than the time that you put  
9 Mr. Foster's documents in there, in July of 1993, had  
10 you been in that room any other time before September  
11 1995?

12 A When I went with a messenger to retrieve  
13 the box, so he could take them to Williams &  
14 Connolly.

15 Q Any other time?

16 A Not that I -- not that I recall. If I was  
17 on the third floor, I generally would be going to the  
18 solarium.

19 Q When you gave the documents to the  
20 messenger, were any documents in a box taken out and  
21 put in the book room?

22 MR. DENNIS: She's testified to that as

1 well.

2 MR. PORTNOY: I will object to that.

3 BY MR. O'CALLAGHAN:

4 Q So other than when you first brought the  
5 documents up and you went with the messenger to  
6 retrieve the box, you don't recall any other times  
7 you went up to the computer room before September of  
8 1995?

9 A Yes, I don't -- I don't recall being up  
10 there.

11 Q Do you know when a computer was first put  
12 in there?

13 A No.

14 Q Do you know what purpose a computer was put  
15 in there for?

16 A Well, I -- I believe it was Simon &  
17 Schuster. I don't know when.

18 MR. DENNIS: That put the computer in the  
19 computer room?

20 THE WITNESS: I believe, yes.

21 BY MR. O'CALLAGHAN:

22 Q So the computer was put there for use for

---

50

1 the First Lady to work on her book?

2 A I think she was supposed to learn how to  
3 use it.

4 MR. DENNIS: To work on the book?

5 THE WITNESS: Yes.

6 BY MR. O'CALLAGHAN:

7 Q Was this in the spring or the summer of  
8 1995?

9 A I don't know when.

10 Q Was there anyone that helped her try to  
11 learn how to use the computer in the computer room?

12 A I don't know.

13 Q Do you know if any meetings were generally  
14 conducted up in the book room?

15 A Are generally?

16 Q Are you aware of any meetings that have  
17 occurred in the book room last year?

18 A Well, I do know in September and in October  
19 and for sure in December, when Mrs. Clinton was  
20 working on the book, that if we needed to have a  
21 discussion with her about anything -- I mean  
22 Christmas, I remember the day that we did Christmas

1 cards in the book room; we did Christmas stamps in  
2 the book room; we -- this was making selections,  
3 because we were in the height of the Christmas  
4 season. So November and December, you know, would  
5 have had -- Ann Stock and other members of our staff  
6 would have been there.

7 MR. DENNIS: This is 1995?

8 THE WITNESS: Oh, yes, I'm sorry.

9 BY MR. O'CALLAGHAN:

10 Q September as well?

11 A I don't recall specifically, but I do know  
12 based on what our Novembers are like, before the  
13 Christmas season.

14 MR. PORTNOY: Can we go off the record for  
15 a second.

16 (Discussion off the record.)

17 MR. O'CALLAGHAN: Back on the record.

18 BY MR. O'CALLAGHAN:

19 Q With regard to entry into the second and  
20 third floor of the residence of the White House, do  
21 you normally have to register with anyone before  
22 going into the residence?

1 A The guards at the -- on the ground floor.

2 Q You have to sign in on a sheet or do you  
3 have to show an ID?

4 A Yes, you have your -- well, I just wear my  
5 ID. It is not a very big show of one.

6 If the -- you know, if the guard is  
7 familiar with you, they will just write your name.  
8 If the guard doesn't know you, they will yell what is  
9 your name and where are you going.

10 Then generally you stop again at the usher  
11 floor and the usher comes out to see who is in the  
12 elevator.

13 Q So is that still on the first floor?

14 A No, that's -- well, there is a ground floor  
15 which is the first, I guess log in, and then it stops  
16 on the first floor, the elevator.

17 Q Okay.

18 A And the ushers come look out.

19 MR. DENNIS: Is the first check-in on this  
20 ground floor, is that the Secret Service, or do you  
21 know?

22 THE WITNESS: Whoever the guard is, if it

1 is Secret Service, I don't know.

2 BY MR. O'CALLAGHAN:

3 Q When the ushers check on the first floor,  
4 do they take down names or do they ask who is there  
5 or do they accompany you where you are going?

6 A It just depends. Sometimes they accompany  
7 you. Sometimes they stop and look and I don't know  
8 where they go and write, whatever, but the office is  
9 right there next to the elevator.

10 Q Once you leave the first floor where the  
11 ushers are, if you go up to the second floor, is  
12 there any one who checks on who's coming up to the  
13 second floor?

14 A No, there is not a Secret Service person  
15 there.

16 Q How about between the second and third  
17 floor?

18 A There is no Secret Service person there.

19 Q Once you get to the second floor, you can  
20 move freely about the second floor?

21 A I wouldn't say freely.

22 I mean, you generally know if you are going

---

1 to go in -- it's somebody's house, so while you may  
2 have a specific thing to do in the house -- I mean,  
3 people are pretty respectful. So either I know I am  
4 going to see Mrs. Clinton in the west sitting room or  
5 the dining room, or if there is a tea in the yellow  
6 office -- I mean, it's -- you have to be there for  
7 some reason, you just don't wander in.

8 Q As far as registering or checking with  
9 people before going to the second and third floor  
10 residence, that happens on the ground floor and the  
11 first floor; is that right?

12 A Yes.

13 Q Do you have to identify where you are going  
14 to, where your destination is, either -- is it called  
15 a checkpoint, for lack of a better word?

16 A I don't know if you have to. I generally  
17 always do. I say second floor, I say third floor,  
18 usher's office, you know.

19 Q Do people normally accompany you once, or  
20 once you check in do you just go up and go about your  
21 business?

22 A It just varies. I mean -- but at this



1 point, no, probably not so much.

2 Q When you go up to the second and third  
3 floor, you don't have someone escort you and bring  
4 you to your destination or do you?

5 A No.

6 Q When you check in with the Secret Service  
7 or whoever the uniformed people are on the ground  
8 floor, do you write your name in on the log or do  
9 they write your name in?

10 A They usually write it in. I mean, that's  
11 all I know, they write it in.

12 Q And when you leave the residence, do you  
13 also check in with the usher and the Secret Service  
14 folks?

15 A Right, you can't really leave and not --

16 Q See them?

17 A Yes.

18 Q And do they mark your time in and time out?

19 A I -- I imagine they do.

20 Q Do they ask you to write your time in and  
21 also to write your time out?

22 A You don't write. They do that.

---

1 Q So you don't do any writing on the logs?

2 A No.

3 Q Because here in the Senate we sign in.

4 A No.

5 Q I would like to ask you some specific  
6 questions about a couple of days in August, with  
7 regard to your visits to the second or third floor of  
8 the residence. And just first without the assistance  
9 of any documentation or anything that might refresh  
10 your recollection, just independently, do you recall  
11 going up to the second or third floor in and around  
12 the first two weeks of August?

13 A As I said before, if Mrs. Clinton were  
14 there, it wouldn't be unusual for us to have had a  
15 meeting with her, a scheduling meeting.

16 Q Just -- this might help, too. Do you  
17 recall meeting with her on the second or third floor  
18 of the residence, before you went on your vacation,  
19 shortly before that, matters to clean up before you  
20 left or --

21 A Oh, I am sure before I went on vacation and  
22 before he went on vacation that we probably met, but

1 generally we meet on the second floor west wing. I'm  
2 sorry, not west -- well, it is the west sitting room.

3 MR. DENNIS: Do you recall whether you were  
4 on the third floor that period though?

5 THE WITNESS: No. I don't.

6 MR. DENNIS: In July and August.

7 THE WITNESS: Right.

8 BY MR. O'CALLAGHAN:

9 Q I am going to show you a document, which is  
10 a one-page document. I will give you a copy, and  
11 counsel and Mr. Portnoy.

12 MR. PORTNOY: Thank you, sir.

13 MR. O'CALLAGHAN: Certainly. Once you have  
14 had a chance to review it, let me know and I will ask  
15 you some questions about the document.

16 THE WITNESS: Okay.

17 MR. O'CALLAGHAN: Counsel, are you okay?

18 MR. DENNIS: Fine.

19 MR. O'CALLAGHAN: I am going to identify  
20 the document for the record; there is a Bates stamp S  
21 020026 -- it is kind of upside down.

22 THE WITNESS: Okay.

---

1 MR. O'CALLAGHAN: It is a log that  
2 appears -- says "F-1 movement log" on the top, and it  
3 is a chart with columns and rows, reads "Thursday" in  
4 handwritten notation on the right-hand side, 8/10/95  
5 page 1 of two.

6 Then there is a -- in the left-hand column,  
7 far left-hand column appears to be a column  
8 identifying individuals. First two entries are the  
9 President and First Lady, which were typeset, and  
10 then there are a bunch of handwritten names which  
11 appear. And to the right of those names are a number  
12 of columns, which read up, down, up, down, up, down  
13 across a series of columns.

14 And then the final column on the sheet  
15 reads location. Then there generally -- actually on  
16 every occasion there is handwritten location, which  
17 appears to be a destination.

18 The first question -- every time I show  
19 someone a document I ask if you have ever seen this  
20 before.

21 THE WITNESS: No, I have not.

22 BY MR. O'CALLAGHAN:

1 Q Also for further identification purposes, I  
2 would like to point out on the bottom it says United  
3 States Secret Service. I can represent to you this  
4 is a Secret Service log for movement within the White  
5 House residence; this is for August 10, 1995. And  
6 there's -- the seventh entry down, listing for  
7 individuals, there is a notation there which I  
8 believe reads Maggie Williams, and has up 1438, down  
9 1505.

10 And my first question is, does this help  
11 refresh your recollection as to whether you went up  
12 to the residence on August 10, 1995?

13 A I don't know the exact date.

14 Q This may help also; above the entry which  
15 reads Maggie Williams, there is an entry that says  
16 Patty Solis with the same entry up and down times,  
17 1438 and 1505. Does that help you recall whether you  
18 went in there with Patty Solis?

19 A I don't remember exactly, but it looks like  
20 it would be our scheduling meeting.

21 Q Who else would normally attend those  
22 meetings?

1 A Just Patty and I, if we -- you know, just  
2 Patty and I generally. We have a bigger scheduling  
3 meeting, as I said, maybe twice --

4 Q That would be with the First Lady; is that  
5 right?

6 A Right.

7 Q And then to the right of that it says  
8 second floor, under the location for both your  
9 names.

10 Does that help refresh your recollection  
11 more than you have already stated?

12 A No, that's pretty typical.

13 Q Did you go up to the second floor of the  
14 residence with Ms. Solis in August, for anything  
15 other than a scheduling meeting?

16 A No. What time was it? I was going to say  
17 maybe we got lunch.

18 Q It appears to be 2:38 to 3:05. I am not  
19 great at military time, but I think that's right.  
20 And also to help you out with representing that day,  
21 I just noticed on the first column, or the column in  
22 the top row which reads "the President." It has him

1 coming down on the fifth entry next to his name, says  
2 1437, which would have been right around the time  
3 that you went up. Do you recall seeing him that day?

4 A No.

5 Q Would that generally stand out in your  
6 mind?

7 A No, it wouldn't.

8 Q Do you see him pretty frequently?

9 A See him in the hall.

10 Q And just -- do you recall on -- again using  
11 this as a reference, and with anything else you can  
12 call to mind -- whether on Thursday, August 10th or  
13 at any time before you left for your vacation, you  
14 went up to the third floor or went up to the book  
15 room?

16 A No. I don't recall, not at all.

17 Q Do you know if Ms. Solis did?

18 A No. No, I don't recall.

19 Q This is an additional log, it's been  
20 produced to the committee as well, and it is for the  
21 same day. And I believe this is a usher's log. And  
22 I will identify it for the record it is a one-page

1 document on White House stationery, Bates stamp  
2 020025.

3 And it says Thursday August 10 and has a --  
4 on the left-hand side it has the number of times  
5 listed, and then next to that it has a number of end  
6 Fridays identifying individuals. And this is a log  
7 kept by the ushers office at the White House. And  
8 there is a 2:45 entry, almost halfway down the page,  
9 which says Maggie Williams, Patty Solis, to second  
10 floor down 3:00.

11 It has a slightly different time period,  
12 which may be with regard to the way the ushers kept  
13 time and the how the Secret Service kept time, how  
14 much precision was used; do you recall whether you  
15 spent more than 15 minutes in a scheduled meeting on  
16 August 10 on the second floor?

17 A I don't recall the exact number of  
18 minutes. But -- I don't recall the exact number of  
19 minutes.

20 Q I am going to show you another document;  
21 this one is two pages. It is another Secret Service  
22 log, if you want to see it, Counsel. Would you like



1 a copy? And Mr. Portnoy, here is a copy.

2 While you are looking at it, I will  
3 describe it for the record if that's okay. It's a  
4 two-page document, again F-1 movement log, and Bates  
5 stamps are S 020328 through 020329. Again, this is  
6 Secret Service log for entry and exit, similar to the  
7 one, the F-1 movement log I previously described with  
8 the rows and columns for individuals to the left, up  
9 and down time notations to right, and location to the  
10 far right. This one is for Friday 8/11/95. Let me  
11 know when you have had a chance to look at it.

12 A Okay, yes.

13 Q I guess this is the following day from the  
14 day I just showed you. The first one was Thursday,  
15 August 10, and this one appears to be Friday, August  
16 11.

17 Do you recall going up to the second floor  
18 of the residence on Friday, August 11?

19 A Not necessarily, but --

20 Q On the left-hand side of the chart it  
21 reads -- there is an entry which reads Maggie  
22 Williams, 1420, then it has down at 1600, which is a

1 little more than an hour and a half. Does that help  
2 refresh your recollection as to whether you were  
3 there on a Friday for an hour and a half, from 2:20  
4 to approximately 5:00?

5 A It's possible. I mean -- it doesn't  
6 surprise me.

7 Q Above that there is an entry that says Bob  
8 Barnett, says 1420 to 1500. Do you recall going into  
9 the residence with Mr. Barnett in August of 1995?

10 A I don't recall it, but it doesn't surprise  
11 me.

12 Q Who is Bob Barnett?

13 A Bob Barnett was Mrs. Clinton's legal  
14 adviser or lawyer, I guess, at Williams & Connolly,  
15 before David Kendall.

16 Q Have you gone up to the residence with him  
17 on more than one occasion?

18 A Yes.

19 Q During the August time period, do you  
20 recall going up to the residence with him on more  
21 than one occasion?

22 A No, I don't. No.

1 Q I just showed you a log which showed your  
2 Thursday meeting or -- Thursday entry with Patty  
3 Solis, where you thought that might have indicated a  
4 scheduling meeting with Patty Solis and the First  
5 Lady. Before you went on vacation, do you remember  
6 having a scheduling meeting with Ms. Solis and the  
7 next day going up to the residence with Mr. Barnett?

8 A I don't remember exactly but --

9 Q Do you have a general recollection?

10 A Could -- I could have.

11 MR. DENNIS: But the question is: do you  
12 recall it independent of these logs, do you have a  
13 recollection of actually --

14 THE WITNESS: No, I don't have a  
15 recollection, independent recollection, no.

16 BY MR. O'CALLAGHAN:

17 Q When did you go on vacation in August? You  
18 said you consulted your calendar when you came in; I  
19 wonder if you remember.

20 A I want to say it was either the 20th or the  
21 21st of August.

22 Q Would it be unusual for you to spend an

1 hour and 40 minutes up in the residence?

2 A No.

3 Q Why is that?

4 A I might be talking with Mrs. Clinton; I  
5 might -- depending on what was going on in the  
6 residence, if we had any occasion that we were doing  
7 in the residence, I might be up there for that. It  
8 wouldn't strike me as unusual to be there for an hour  
9 and a half.

10 Q I think I misspoke on the record earlier.  
11 I said if you remember being there from 2:20 to 5:00,  
12 actually it was 2:20 to 4:00.

13 MR. DENNIS: 1600.

14 MR. O'CALLAGHAN: I wanted to be clear on  
15 that. I told you I had trouble with military time.

16 THE WITNESS: I see.

17 MR. O'CALLAGHAN: That's the problem with  
18 that.

19 BY MR. O'CALLAGHAN:

20 Q Do you recall being in the meeting in or  
21 around August 11, 1995 with Mr. Panetta and  
22 Mr. Barnett in the residence on the second floor?

1 A I don't -- I don't necessarily recall it.

2 Q Just -- I want to point out the log shows  
3 Mr. Panetta also went up about 1450, half an hour  
4 before you did, but left at the same time, at 1600,  
5 and whether that refreshed your recollection going up  
6 early with Mr. Barnett and coming down later with  
7 Mr. Panetta?

8 A I don't necessarily remember that.

9 Q Do you have a recollection of any meetings  
10 around August of 1995 that involved Mr. Panetta and  
11 Mr. Barnett?

12 A Well, I can think of meetings that involved  
13 them individually. It doesn't -- I don't have a  
14 recollection of meeting with the two of them together  
15 in August.

16 Q Did you meet with them separately up in the  
17 residence?

18 A I don't recall that, meeting with them  
19 separately -- oh, in the residence.

20 MR. DENNIS: Are we talking about this  
21 occasion on the 11th?

22 MR. O'CALLAGHAN: I am talking about

1 generally in that time period, then if you have a  
2 specific recollection on the 11th, I am using this to  
3 help you remember.

4 THE WITNESS: I don't have a specific  
5 recollection on the 11th.

6 I do have a recollection of definitely  
7 talking to Bob Barnett about book stuff, book  
8 advice. He -- Kendall was the lawyer in the book  
9 issues, but Bob certainly had experience in this  
10 area, in books and publishing.

11 And so I'm certain that at some point or  
12 another, I don't remember if it was August exactly,  
13 but having a conversation with Bob Barnett and  
14 Mrs. Clinton, about -- about the book. It strikes me  
15 as a conversation I had. I don't know when, but it  
16 strikes me as a conversation I had.

17 BY MR. O'CALLAGHAN:

18 Q Do you remember if it was before you went  
19 on vacation?

20 A It could have been before I went on  
21 vacation.

22 Q Do you remember?

1 A I don't remember specifically.

2 Q Where did that conversation take place?

3 A I don't recall specifically where it took  
4 place. But it -- I don't recall specifically where  
5 it took place.

6 Q Did it take place in the residence?

7 A But it could have been in the residence.

8 Do I recall? I recall a conversation with

9 Mr. Barnett and with Hillary on -- just an array of  
10 book things and, you know, good publishers, bad  
11 publishers, all kinds of things.

12 Q Was it in an office or more relaxed  
13 atmosphere, just to help you remember?

14 A Well, it is always pretty relaxed with Bob  
15 Barnett.

16 Q You understand what I am getting at?

17 A Yes, I know. I don't have a precise  
18 recollection of where. I do have a recollection of a  
19 conversation with Bob Barnett and Mrs. Clinton.

20 Q Was she working on the book at the time  
21 or -- I mean literally working on the book; were  
22 there drafts around or --

1 A I don't -- I don't know. I don't know if  
2 she was specifically, in August, when she was -- what  
3 she was doing with the book, but I remember having a  
4 conversation with Bob Barnett.

5 MR. DENNIS: But was that in August  
6 necessarily?

7 THE WITNESS: I think it was in August. I  
8 think it was in August.

9 BY MR. O'CALLAGHAN:

10 Q Was it a long conversation, a quick one, it  
11 involved --

12 A I don't specifically recall except I do  
13 remember having a conversation with him.

14 Q Did you talk about what assistance you  
15 might lend her getting the book ready?

16 A What? I'm sorry.

17 Q Was there any discussion about what  
18 assistance you might lend her in getting the book  
19 ready?

20 A None in August, no.

21 Q Do you recall a meeting with Mr. -- being  
22 in a meeting with Mr. Panetta in August?



1 A Meetings with Mr. Panetta?

2 Q Specifically in August on the second floor  
3 of the residence, in the residence?

4 A I have been at meetings with Mr. Panetta in  
5 the residence on more than one occasion, so --

6 Q I will try to ask one more time just to  
7 make sure we flesh this out. Do you know, looking at  
8 August 11, 1995, the log which shows you going up  
9 with Mr. Barnett and coming down with Mr. Panetta,  
10 whether that helps refresh your recollection as to  
11 whether you had a meeting with Mr. Panetta that day,  
12 or you were at a meeting with Mr. Panetta?

13 A It does not refresh my recollection.

14 Q Were you ever on the third floor with  
15 Mr. Barnett?

16 A I remember around Christmastime, maybe  
17 December.

18 MR. DENNIS: What year?

19 THE WITNESS: 1995, I think. Well, just --  
20 1995. I want to say December, maybe.

21 (Discussion off the record.)

22 MR. O'CALLAGHAN: Why don't we go back on

---

1 the record.

2 BY MR. O'CALLAGHAN:

3 Q Right before we went off the record, so you  
4 said you met with Mr. Barnett on the third floor  
5 around Christmastime. What was that in relation to?

6 A It's just for some reason, I saw him on the  
7 third floor, and I believe it was Christmastime,  
8 because he was asking me where I was spending  
9 Christmas.

10 Q Do you recall where you saw him on the  
11 third floor?

12 A My recollection is that I saw him in the  
13 hallway.

14 Q Other than him asking you what you were  
15 doing for Christmas, did you have any other  
16 discussions with him?

17 A No, I just have that picture in my head.

18 Q Where in the hallway on the third floor was  
19 it; was it near the computer room; was it near the  
20 solarium, in the book room?

21 A It could have been the hallway of the  
22 solarium, the hallway leading to the solarium.

1 Q Was it in the hallway leading to the  
2 solarium?

3 A There are photos -- yes, the hallway in the  
4 solarium.

5 Q What were you doing up there?

6 A I don't know.

7 MR. O'CALLAGHAN: Let's go off the record  
8 briefly. I will be back in two minutes.

9 (Discussion off the record.)

10 MR. O'CALLAGHAN: Back on the record.

11 BY MR. O'CALLAGHAN:

12 Q I refer you again to 8/11/95, August 11,  
13 1995 records. I would also like to direct your  
14 attention to the second page of the document. And  
15 the last entry there says VP Gore and it says "up  
16 1438, down 1559," which is a period of time you  
17 appear to have been at least on the second floor of  
18 the residence. Do you have any recollection whether  
19 you saw Vice President Gore in the residence?

20 A No.

21 Q That same day Mr. Barnett and Mr. Panetta  
22 were there?

1 A No, I do not.

2 (Mr. Dinh entered the deposition.)

3 BY MR. O'CALLAGHAN:

4 Q With regard to the two sets of records, the  
5 Secret Service logs and the usher's logs. For the  
6 periods of July and August, these appear to be the  
7 only entries or -- entries in the Secret Service logs  
8 and the usher's log to show you went up to the  
9 residence. And you already testified that you  
10 believe you went up there once or twice a week, and I  
11 want to ask you if you knew why it would be that  
12 these entries would be marked and possible other  
13 entries wouldn't be, or if you hadn't gone up once or  
14 twice a week during that time period?

15 A Well, as I said in the beginning, we tried  
16 to do this at least once or twice during the week.  
17 But we can either do it on the phone or Patty Solis  
18 will call me and say I don't have anything on the  
19 schedule, do you have anything you need, or we will  
20 say let's save it all for another -- so it just -- it  
21 just depends.

22 Q Just to help refresh your recollection,

1 July of 1995 there were hearings going on here in the  
2 Senate with regard to Whitewater matters; does that  
3 refresh your recollection as to whether you went up  
4 to the residence more than is indicated in the logs I  
5 have just shown you?

6 A That only indicates to me I was spending  
7 more time with my lawyer. Was I in those hearings?

8 MR. DENNIS: Which hearings?

9 THE WITNESS: But, no it doesn't have  
10 any --

11 BY MR. O'CALLAGHAN:

12 Q Are there ever times when you go up into  
13 the residence where your entry is not noted by Secret  
14 Service agents?

15 A Well, I don't know that.

16 Q Every time you go by, do you show them the  
17 badge and they log it in, or can you sometimes just  
18 walk in and -- is he more relaxed or do you have to  
19 check in with them every time?

20 A There is always a guard there.

21 Q Do you always display your ID to them or do  
22 you just walk in?

1 A My ID hangs around my neck all day. It is  
2 always on display.

3 Q Are you familiar with the Secret Service  
4 guards that are located at the entrance to the  
5 residence?

6 A Some, some not.

7 Q Do they know you by name?

8 A Some, some not.

9 Q If there was an agent there who didn't know  
10 you by name, would you have to show them your badge  
11 to show you who they were?

12 A They would definitely ask me, yes.

13 Q Do you know of any times when you have been  
14 at the residence when your entrance hasn't been  
15 marked by Secret Service agents?

16 A I wouldn't know that.

17 MR. DENNIS: Mike, maybe I can clarify  
18 because I have been up a couple of times. When you  
19 go up into the residence, you will see the guard and  
20 he will greet you, hi Ms. Williams. He wouldn't know  
21 me in particular, but you don't see him with a pen  
22 writing something down. If they make an entry they

1 just make it, you don't see them make it. You don't  
2 sign it, you don't know what's going on. It is not  
3 like going into the White House you have to show your  
4 identification get logged in and logged out.

5 Then when you go up to the elevator to the  
6 floor where the ushers are, the usher will come out  
7 or someone will come out and they will greet you and  
8 you will go on your way. Whether they go back in  
9 their office and make an entry -- it is not as formal  
10 a check point as it would be when you are going into  
11 the -- what do they call that where you go in and out  
12 of the White House itself.

13 THE WITNESS: One of the gates I guess.

14 MR. DENNIS: It is not called the log-in,  
15 it is actually an acronym. I didn't realize that.

16 THE WITNESS: I don't know.

17 MR. DENNIS: What happens when you call  
18 down to have my name put in the computer?

19 MR. PORTNOY: Waved in.

20 MR. DENNIS: It is not like that at all.  
21 When I go up, I don't know whether that agent -- in  
22 fact, I didn't know until these hearings that

1 anything was being logged in or logged out when I was  
2 going up to the residence, so it is not obvious to  
3 the person. Ms. Williams may know, but I could not  
4 tell that I was actually being logged in or logged  
5 out.

6 BY MR. O'CALLAGHAN:

7 Q You spoke earlier about a meeting they had  
8 with Mr. Barnett and the First Lady where there were  
9 discussions about the book; is that right?

10 A I said I remembered a conversation about  
11 the book.

12 Q Your recollection is that was in August; is  
13 that right?

14 A I think it was in August.

15 Q Other than Mr. Barnett and the First Lady,  
16 was anyone else present in that discussion?

17 A No. I don't recall. I don't recall  
18 anybody else.

19 Q Was Mr. Panetta there?

20 A I don't recall.

21 MR. PORTNOY: I'm sorry. Was that that you  
22 don't remember whether he was there, or you



1 affirmatively remember he was not there?

2 THE WITNESS: Oh, I -- I don't remember a  
3 meeting with Leon Panetta, Mrs. Clinton and Bob  
4 Barnett.

5 MR. PORTNOY: Thank you.

6 BY MR. O'CALLAGHAN:

7 Q Do you remember a discussion when all three  
8 of them were there?

9 A No, I do not.

10 Q Again, I just asked you about whether you  
11 remember seeing the Vice President in the residence  
12 in August of 1995, and I pointed out to you that the  
13 time appears to have been 1438 and 1559, appears to  
14 correspond with part of the time that you were in the  
15 residence. And just to flesh out more fully your  
16 recollection, that also appears to be the time that  
17 Mr. Panetta was there, and also part of the time that  
18 Mr. Barnett was there.

19 Do you recall seeing the three of them  
20 together in the residence during that time period?

21 A No, I do not.

22 Q How many times have you seen the Vice

---

1 President in the residence?

2 A Over four years?

3 Q Over the course of the last year.

4 A A few times.

5 Q Do you recall seeing him in the summer of  
6 1995?

7 A I don't recall.

8 Q Other than discussions regarding the First  
9 Lady's work on her book that involve Mr. Barnett  
10 where you were present, were there any other  
11 discussions that occurred during that time period,  
12 during that meeting?

13 A What I remember is that conversation about  
14 the book, and what I remember was conversation about  
15 the book and about publishing in general.

16 Q Any other discussions occur?

17 A What I remember is a discussion about the  
18 book and publishing.

19 Q Just so you understand the question -- I  
20 may not be being clear -- were there -- I know all  
21 you remember -- you are saying you remember the  
22 discussion about the book and publishing.

1           Were there other discussions that you don't  
2 remember? That was just --

3           MR. PORTNOY: You mean does she recall  
4 having discussions but not remember the subject?

5           BY MR. O'CALLAGHAN:

6           Q   Do you remember there were discussions,  
7 other than discussions involving the book and  
8 publishing, or is that the only thing they talked  
9 about?

10          A   That's all I remember.

11          Q   Do you understand what I am trying to get  
12 it? I am trying to understand whether -- I  
13 understand you are saying under the discussion about  
14 the book and publishing --

15          MR. DENNIS: Mike, I don't think you can  
16 make a distinction like that. If she doesn't  
17 remember, and I think she has told you what she  
18 remembers, I don't see how you can remember having a  
19 different conversation, not remembering the subject;  
20 is that the import of your question? There was a  
21 conversation but there --

22          BY MR. O'CALLAGHAN:

---

1           Q   There was a -- I will have discussion with  
2 people and I will remember talking with them about  
3 one subject and I remember talking with them about  
4 more things, but I don't remember what that is. Do  
5 you remember if there were other things discussed  
6 other than the book and publishing?

7           A   No, I do not.

8           Q   As far as your recollection, the only  
9 discussion centered around the book and publishing?

10          A   Yes.

11          Q   Did you go there to meet with him just  
12 about the book and publishing?

13          A   I don't recall.

14          Q   Would this be your assumption, seeing that  
15 that was the only discussion you were aware of?

16          A   Yes, that would be my assumption.

17          Q   Were you present during all the  
18 discussions, or were there discussions that went on  
19 when you weren't there, or did you go up and down  
20 with --

21          A   Well, as I said before, what I remember,  
22 and I don't remember it on August 11, but I remember

1 at some point there was a discussion between  
2 Mrs. Clinton, Mr. Barnett and myself about books and  
3 publishing, that's what I recall.

4 Q Were you present during any discussions or  
5 meetings that occurred in July or August of 1995 that  
6 involved discussion of the Rose Law Firm billing  
7 records?

8 A Oh, no. Not at all.

9 MR. PORTNOY: What was the time frame on  
10 that? I'm sorry.

11 MR. O'CALLAGHAN: July through August of  
12 1995.

13 BY MR. O'CALLAGHAN:

14 Q Are you aware of any discussions that the  
15 First Lady was involved in during July and August of  
16 1995 that involved the Rose Law Firm billing records?

17 A No, I am not.

18 Q Are you aware of any discussions that the  
19 President may have been involved in regarding Rose  
20 Law Firm billing records during July and August of  
21 1995?

22 A No, I am not.

1 Q Have you ever heard that the First Lady was  
2 involved in discussions regarding the Rose Law Firm  
3 billing records in July and August of 1995?

4 A No, I have not.

5 Q Have you ever heard that the President was  
6 involved in discussions involved with Rose Law Firm  
7 billing records in July and August of 1995?

8 A No, I have not.

9 Q I would like to show you an usher's log of  
10 entries and exits to the residence for the same date  
11 we just discussed, August 11. This may be of further  
12 assistance in helping you remember the events that  
13 occurred that day. If you look down, it is a  
14 one-page document, again on White House stationery, S  
15 1020321. I would like to direct your attention to  
16 the entry which begins 2:20, which is the time  
17 demarcation. It says "Robert Barnett, Maggie  
18 Williams to the second floor."

19 As you continue down to 3:50, it says  
20 "Robert Barnett and Ms. Williams to the ground  
21 floor," which is somewhat at variance with the Secret  
22 Service log which you have in front of you. It shows



1 the same entry, but different exit times, though the  
2 4:00 departure for you seems consistent, at least  
3 within 10 minutes, but not so for Mr. Barnett.

4 My question is whether in August of 1995,  
5 you remember going up into the residence with  
6 Mr. Barnett and then bringing him back down?

7 A No, I don't remember specifically.

8 Q Have you ever brought him up and then  
9 brought him back down?

10 A In the four years? What's the time frame?

11 Q Over the last year.

12 A Over the last year? I don't recall  
13 specifically, no.

14 Q Do you have a recollection of ever bringing  
15 him up and then bringing him back down?

16 A Over the course of four years?

17 Q Yes.

18 A Yes.

19 Q And when do you remember doing that?

20 A I don't remember specifically.

21 Q Do you recall for what purpose you were  
22 bringing him up, whether it was for meetings, or were

1 you dropping him off, attending meetings with him?

2 MR. DENNIS: Can I ask you a question,  
3 because I think your question assumes something. Are  
4 you assuming that if Ms. Williams and Mr. Panetta are  
5 in the company of one another in the residence, going  
6 up and going down, that she is actually accompanying  
7 him to visit that residence and then accompanying him  
8 out of residence? Is that what you are saying?

9 BY MR. O'CALLAGHAN:

10 Q That's not the -- it was entering and  
11 leaving at the exact same time, whether you recall  
12 doing that, that's the first question, if you  
13 remember doing that.

14 A On August 11?

15 Q Yes.

16 A I don't remember specifically on August  
17 11.

18 Q And generally, if you arrived at the same  
19 time as someone and left at the same time, does that  
20 usually indicate you were having a discussion or  
21 meeting with that person, would the same destination  
22 be on the second floor?



1 A Can you say that again, please?

2 Q Sure. Is it fair to say that generally  
3 entering at the exact same time as somebody and  
4 leaving the same time and the same destination is  
5 listed on the log, would it be fair to say that  
6 usually it meant you were involved in a discussion or  
7 meeting with the person who it was marked down that  
8 you entered and left with?

9 A No.

10 Q Do you know a time you entered the  
11 residence at the same time and left the same time  
12 where you were not involved with discussions with  
13 that person?

14 A Yes.

15 Q Can you specify? Did that ever happen with  
16 Mr. Barnett?

17 A I can't specify. I can specify an instant  
18 when I would do that. I would come up on the  
19 elevator to the second floor, Capricia might be on  
20 the elevator, and I might have a meeting with  
21 Mrs. Clinton. Capricia wouldn't be at that meeting  
22 but she might join us on the elevator down to go to

1 her next destination.

2 MR. PORTNOY: Is this a recollection of an  
3 event or a hypothetical?

4 THE WITNESS: It is a hypothetical. It is  
5 clearly a hypothetical. But I thought the question  
6 itself was there -- I mean, I was trying to  
7 understand the question.

8 MR. O'CALLAGHAN: That's fine, you've  
9 answered it.

10 MR. DENNIS: Mike, there is another  
11 assumption. I want to be sure we are clear here that  
12 going to the second floor means that you are going to  
13 the same place.

14 I don't know whether Ms. Williams answered  
15 that. Can you clarify, Ms. Williams, whether going  
16 to the second floor means you and someone else were  
17 going to the same place?

18 THE WITNESS: Not necessarily.

19 MR. DENNIS: How many meeting places are  
20 there on the second floor that you are aware of?

21 THE WITNESS: Well, I don't think there are  
22 any designated meeting places but it is their home.

1 So I guess they can turn any space they want into a  
2 meeting place.

3 MR. DENNIS: The only reason I mention that  
4 is because it does show that the President was on the  
5 second floor at 1438, and that Leon Panetta went to  
6 the second floor at 1450. And I haven't heard that  
7 the President was necessarily involved in the  
8 meeting, or any meeting, that may have involved  
9 Ms. Williams and Mr. Barnett.

10 I also note that he, the President, comes  
11 down at 1633, and Mr. Panetta comes down at 1600.  
12 And I think Mr. Gore, Vice President Gore goes up at  
13 1438 at the same time the President does, and comes  
14 down 1559, which is a minute -- did you see Mr. Gore  
15 on the elevator?

16 MR. PORTNOY: Which is a minute before  
17 Mr. Panetta is supposed to have left; is that what  
18 you were --

19 MR. DENNIS: Yes.

20 BY MR. O'CALLAGHAN:

21 Q The next question is whether or not in  
22 August of 1995, generally, you recall being in the

1 residence of the White House where there was a  
2 meeting involving the President, Leon Panetta, Bob  
3 Barnett, and the Vice President?

4 A No, I don't.

5 Q Do you know if a meeting like that  
6 happened?

7 A No, I don't.

8 Q Have you ever been told that a meeting like  
9 that happened?

10 A No.

11 Q So you have -- just so the record is clear,  
12 you have no recollection, after looking at the  
13 documents that I've showed you, of meeting or being  
14 with Mr. Barnett in the White House on August 11,  
15 1995; is that right?

16 A Right, I have no specific recollection.

17 MR. O'CALLAGHAN: Mr. Dinh would like to  
18 ask a couple of questions.

19 MR. PORTNOY: I am going object to this.

20 MR. O'CALLAGHAN: Objection noted. We will  
21 go off the record for five seconds and then he will  
22 ask some questions.

1 MR. PORTNOY: That's fine.

2 (Discussion off the record.)

3 MR. DINH: Go back on the record.

4 EXAMINATION

5 BY MR. DINH:

6 Q Ms. Williams, as you know, my name is Viet  
7 Dinh and I apologize for not having been here  
8 earlier. We had hearings pending, and I had to  
9 attend those hearings.

10 I understand you are coming here, and we  
11 had a conversation, Mr. Dennis, that you have other  
12 engagements and you would like to get out by 5:30 or  
13 6:00.

14 And when I -- I would like the opportunity  
15 to ask you a couple of questions, they will be very  
16 brief, about 15 minutes, just in order to be  
17 thorough, so that we minimize the need to get you  
18 here repeatedly.

19 I apologize for the staffing problems that  
20 we have. We do have limited resources for our  
21 committee, and I hope you would understand, and I  
22 hope Mr. Dennis, counsel would not object to me

1 asking a few follow-up questions.

2 MR. DENNIS: This is the way I would like  
3 to handle this. I would like to excuse  
4 Ms. Williams. This discussion should be made among  
5 counsel. Obviously Ms. Williams is not here to deal  
6 with the procedural issues that may be raised as far  
7 as this is concerned. So why don't we discuss this  
8 among ourselves, why don't we have Ms. Williams take  
9 a break, and maybe we can work it out.

10 MR. DINH: That would be great.

11 THE WITNESS: So I have to leave?

12 MR. DINH: You don't have to leave --

13 MR. O'CALLAGHAN: Off the record.

14 (Discussion off the record.)

15 MR. O'CALLAGHAN: Let's go back on the  
16 record.

17 EXAMINATION

18 BY MR. O'CALLAGHAN:

19 Q I would like to show you a document,  
20 which -- it is a one-page document S 020027, copy for  
21 you and your counsel and for Mr. Portnoy now. Again,  
22 it is an entry log for the date Wednesday, August 9,

1 1995, which was -- and it is United States Secret  
2 Service entry next to the log. And I would like to  
3 direct your attention to an entry three rows from the  
4 bottom, which is -- indicates, it says "Maggie  
5 Williams up 1210, down 1354," and it says "second  
6 floor." And underneath that it says "Patty Solis,  
7 1210 entry, 1340 departure." And then there is a  
8 Neel Lattimore, which is 1210, 1340, also respective  
9 entry and exit.

10 The first question is, do you remember  
11 going up to the second floor of residence on August  
12 9, 1995? You have seen this document, Patty Solis is  
13 there and Neel Lattimore entering at the same time.

14 THE WITNESS: I don't remember this  
15 specific date, August 9th.

16 BY MR. O'CALLAGHAN:

17 Q Okay, running through, I have shown you  
18 dates for Friday, Thursday and Wednesday of that  
19 week, three successive days where you appear to have  
20 gone to the second floor of residence and twice with  
21 Patty Solis. Do you remember going up with her more  
22 than once during that week? Does that help refresh

1 your recollection as to what you were doing?

2 A I can only refer back to the beginning of  
3 my deposition, which was that Patty Solis, the  
4 scheduler and I try and meet Mrs. Clinton; typically,  
5 we do it in the residence on the second floor. I  
6 don't remember specifically this date and this going  
7 on.

8 Q Okay. Who is Neel Lattimore?

9 A He is the deputy press secretary.

10 Q Do you remember going up with Patty and  
11 Neel around noontime on Wednesday the 9th?

12 A No, I don't remember specifically on August  
13 9th going up with the two of them.

14 Q Around this time period?

15 MR. DENNIS: Meaning in August.

16 BY MR. O'CALLAGHAN:

17 Q In or around August of 1995, before you  
18 went on your trip for your vacation?

19 A Okay. The question is do I specifically  
20 recall?

21 Q I will ask you if you have a general  
22 recollection of doing it.



1 A I have general recollections of meeting  
2 with Mrs. Clinton, with Patty, and -- with Patty. I  
3 don't have a general or specific memory of meeting  
4 with Mrs. Clinton, Neel and Patty.

5 Q Would it be atypical for you to meet, to go  
6 up to the residence with Patty on a Wednesday and a  
7 Friday to have scheduling meetings?

8 A No.

9 Q Do you have scheduling meetings more than  
10 one in a three-day period?

11 A Yes.

12 Q Would you have any other meetings with  
13 Patty and the First Lady other than issues dealing  
14 with scheduling?

15 A It would be scheduling.

16 Q Would Mr. Lattimore be involved in  
17 scheduling meetings as well?

18 A Generally not. Ms. Caputo might be there  
19 if there was a situation where there was some media  
20 issue.

21 Q Press concerns?

22 A Some press concern. And Neel is Lisa

1 Caputo's deputy.

2 Q Do you recall going up with Patty and Neel,  
3 and then staying behind and Neel and Patty going on  
4 without you around August 1995?

5 A I don't have a specific recollection. I  
6 don't have a specific recollection.

7 Q Do you have any recollections of being in  
8 the residence with Mr. Lattimore in August of 1995?

9 A Not this moment. I do not.

10 (Mr. Giuffra entered the deposition.)

11 BY MR. O'CALLAGHAN:

12 Q Looking at these records, do you have any  
13 reason to doubt that you went up with Ms. Solis and  
14 Mr. Lattimore on August 9, 1995?

15 A Looking at these records, no, I don't have  
16 any reason to doubt it.

17 Q Did you have any meetings at the residence  
18 that involved Ms. Solis and Mr. Lattimore where Rose  
19 Law Firm records were discussed?

20 A No.

21 Q I would like to direct your attention to  
22 another document, another one-page document similar

1 to the F-1 movement log. It bears a Bates stamp S  
2 020325 and I will give you a copy.

3 Do you have what I reported?

4 A 8/14.

5 Q I want to direct your attention once again  
6 to the entry, seven rows up from the bottom, says  
7 Maggie Williams, up at 1640 and out at 1840.

8 Do you have any recollection of going up to  
9 the residence on Monday, the 14th of August?

10 A Once again, I could not tell you that date,  
11 specifically 8/14. But this appears to be our big  
12 general scheduling meeting.

13 Q Do those take place at night often, or  
14 generally during the day?

15 A Whenever we can get them in.

16 Q What's the reason you believe that this was  
17 your general scheduling meeting?

18 A Because I see Ann Stock, Lisa Caputo,  
19 Melanne Verveer.

20 Q Was it unusual for you to be going into the  
21 residence on a Wednesday, Thursday, Friday and a  
22 Monday, in succession; is that typical?

---

1 A Well, nothing is really typical.

2 If you had a state dinner on a Wednesday,  
3 and then, as we often do, two events on the next day,  
4 all of which have to do with either scheduling or  
5 invitation list, or something that's going on, there  
6 is really not -- it is not typical.

7 Q Generally the entries that we are talking  
8 about on the Wednesday, Thursday and Friday occurred  
9 during the afternoon, and those included  
10 Mr. Barnett. Would he be involved in meetings where  
11 you talk about state dinners, or would he be there  
12 for specific other matters?

13 A Well, I guess the question was related to  
14 this, and how I knew that this was a scheduling  
15 meeting, and it was by looking at the people who were  
16 there.

17 Q My question was with regard to your being  
18 in the residence on a Wednesday, Thursday, Friday,  
19 and then on a Monday, you said normally you are only  
20 there one to two times a week for scheduling  
21 meetings. This seems to be atypical, from being  
22 there one to two times a week just for scheduling

1 meetings, when it appears from the records that the  
2 only meeting that appeared to be a scheduling meeting  
3 was on Monday, except the one with Ms. Solis was  
4 scheduling meeting also?

5 MR. DENNIS: Mike, can I take issue with  
6 one thing. One, the assumption is that she comes to  
7 the residence primarily for scheduling meetings. I  
8 thought her testimony was that she had scheduling  
9 meetings or went to the residence approximately on  
10 average twice a week. That doesn't mean some weeks  
11 she might not go every day and some weeks she might  
12 not go at all.

13 The second thing is, there is an assumption  
14 she only goes to the residence for scheduling  
15 meetings. I don't know whether that's the case or  
16 not, but I think we should try to clarify this so we  
17 are not confusing things, because your question  
18 really assumes quite a few things that, as to why  
19 they were -- that this was somehow suspicious because  
20 it is four days in a row. So would you try to  
21 clarify some of these questions.

22 MR. O'CALLAGHAN: Okay.

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1 BY MR. O'CALLAGHAN:

2 Q Part of the problem is you have had  
3 difficulty recalling the different purposes for your  
4 visits that I have pointed out to you in the  
5 different logs. And I was just trying to ascertain  
6 as to whether it was unusual that you were there four  
7 work days in a row, Wednesday through Friday and then  
8 Monday. And whether the fact that you were there  
9 with Mr. Barnett was something that -- it obviously  
10 wasn't something that involved scheduling; is that  
11 right?

12 A Right.

13 Q And I think you testified earlier you  
14 thought the only discussion you recall with regard to  
15 meeting with Mr. Barnett was a discussion about the  
16 First Lady's book; is that right?

17 A Right.

18 MR. GIUFFRA: Off the record.

19 (Discussion off the record.)

20 MR. O'CALLAGHAN: Back on the record.

21 BY MR. O'CALLAGHAN:

22 Q Okay. Ms. Williams, I would like to show



1 you a multipage document which bears Bates stamp DKS  
2 028928 through DKS 029043. It's a computer  
3 printout, and it is entitled "Rose Law Firm client  
4 billing and payment history by client ID matter."  
5 And the top of the first page reads "client 98262,  
6 Madison Guaranty Savings & Loan."

7 I would like to hand this to you and your  
8 counsel and take a moment to look at it. I will ask  
9 you some general questions about the documents as a  
10 whole.

11 MR. DENNIS: Mike, let me ask you before we  
12 look at them, I notice that the Xerox itself is on  
13 Xerox paper that seems to be larger than the contours  
14 of the record that was Xeroxed. Is that accurate?  
15 Just looking at this border here on the left.

16 MR. O'CALLAGHAN: The observation appears  
17 to be accurate to me. I can represent to you that  
18 this is how they were produced.

19 MR. DENNIS: Okay, okay, I understand. At  
20 least it is possible that the original of these  
21 records might be a size, maybe two inches less width  
22 than what's shown here; at least that's a

1 possibility, that's all I am saying.

2 MR. O'CALLAGHAN: I can represent to you  
3 that this is how the documents were produced to us by  
4 Mr. Kendall on --

5 MR. PORTNOY: This appears -- these appear  
6 to be 11-1/2 by 17 inch or larger copies of smaller  
7 documents.

8 MR. GIUFFRA: This is the actual copy of  
9 the billing records provided to the Senate Banking  
10 Committee by David Kendall on January 5, 1996.

11 MR. DENNIS: Let me just put on the record,  
12 just with regard to what we are looking at, that the  
13 records that were provided by Mr. Kendall and are  
14 before us now appear to be Xerox copies of some  
15 records on computer paper. And it appears -- and  
16 this is my characterization -- that the records, the  
17 original records that were being copied, were  
18 approximately two inches, an inch and a half narrower  
19 than the Xerox that I am looking at. My  
20 characterization; you don't have to agree with it.

21 MR. GIUFFRA: Off the record.

22 (Discussion off the record.)



1 MR. O'CALLAGHAN: Back on the record.

2 BY MR. O'CALLAGHAN:

3 Q My first question, Ms. Williams, is have  
4 you ever seen the documents that I have just shown to  
5 you?

6 A At the -- my lawyer asked White House  
7 counsel to show them to me.

8 MR. DENNIS: Soon after they were found.

9 BY MR. O'CALLAGHAN:

10 Q What time period was that?

11 A I don't know, was it last week or -- I  
12 don't remember.

13 Q Was it within the last two weeks?

14 A Yes.

15 Q Do you remember what day you were shown  
16 them?

17 A No.

18 Q Other than your attorney showing them to  
19 you -- you said White House counsel showed them to  
20 you or your attorney did?

21 A My attorney.

22 MR. DENNIS: Let me put this on the

1 record.

2 I had not had any custody of these records  
3 or records like this. I instructed my client, very  
4 soon after I believe the records were found, to take  
5 a look at the records in the presence of White House  
6 counsel, and to determine whether or not she had seen  
7 these records before.

8 But in terms of when that occurred, I can  
9 only place it in terms of being soon after they were  
10 found.

11 BY MR. O'CALLAGHAN:

12 Q Did you see these before they were produced  
13 to the Special Committee?

14 A No, I think they had long been in the  
15 news. I don't know when they were produced to you.

16 Q Had you heard that they had already been  
17 produced to the Special Committee when you reviewed  
18 them?

19 A I don't know.

20 EXAMINATION

21 BY MR. GIUFFRA:

22 Q I want to ask a couple of questions, go

1 through the documents, flip through the pages. Have  
2 you, on any occasion prior to the time when you were  
3 shown the documents by the White House counsel, ever  
4 seen any of the documents within that compendium,  
5 DKSJ 28928 through 29043? And take your time and go  
6 through the whole thing.

7 And have you ever seen any of the pages in  
8 there on any occasion prior to the time you saw them  
9 with your counsel?

10 Were you present, Mr. Dennis?

11 MR. DENNIS: What?

12 BY MR. GIUFFRA:

13 Q When you saw it, who did you see it with,  
14 Jane Sherburne?

15 A Yes.

16 Q Go through the pages, look at each page,  
17 and if you have seen it before, let us know.

18 MR. PORTNOY: Off the record.

19 (Discussion off the record.)

20 MR. DENNIS: I want to put on the record,  
21 my client is looking at the form. Are you able to  
22 read these line for line, word for word as I am

1 flipping through them for you?

2 THE WITNESS: I mean, I have just never  
3 seen this.

4 MR. DENNIS: But you are not reading each  
5 page and you are not asking her to read each page.

6 BY MR. GIUFFRA:

7 Q Have you seen documents that appear to be  
8 similar to these on any occasion prior to the time  
9 you were shown them by Ms. Sherburne?

10 A I have not.

11 MR. PORTNOY: Put on the record the  
12 documents have red markings on them.

13 MR. GIUFFRA: This is the exact copy we  
14 received from Mr. Kendall which contains red markings  
15 on some of the pages.

16 MR. GIUFFRA: Back on the record.

17 BY MR. GIUFFRA:

18 Q Ms. Williams, you've examined each page as  
19 shown to you, these documents Bates numbered DKSJ  
20 28928 to 29043; correct?

21 A Yes.

22 Q You looked at each one of the pages?

1 A Yes.

2 Q Prior to the time they were shown to you by  
3 Ms. Sherburne of the White House counsel's office in  
4 January of 1996, you had never seen any of the pages  
5 of this document before?

6 A No.

7 Q Have you on any occasion, prior to the date  
8 when Ms. Sherburne showed you a copy of this  
9 document, bearing Bates number 28928 on to 29043,  
10 have you ever seen any Rose Law Firm records of any  
11 kind?

12 A No.

13 Q When I use the word "records," I want that  
14 to encompass not only billing records but any other  
15 kind of records of the Rose Law Firm.

16 A No, I have not.

17 MR. PORTNOY: By that, Bob, do you mean any  
18 documents that might have been drafted in the Rose  
19 Law Firm, or --

20 MR. GIUFFRA: Letters of the Rose Law Firm,  
21 documents of the Rose Law Firm, documents that came  
22 out of the Rose Law Firm, Rose Law Firm client files.

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1 MR. PORTNOY: That I assume she knew at the  
2 time to have been prepared by the Rose Law Firm or in  
3 the custody of the Rose Law Firm.

4 MR. GIUFFRA: That you thought was from the  
5 Rose Law Firm. If Mrs. Clinton wrote a letter on  
6 Rose Law Firm stationery and signed her name, let's  
7 include that, in the broadest possible sense.

8 THE WITNESS: Definitely no billing records  
9 or client things. I am just trying to think. No,  
10 no.

11 Does this include -- no, it does -- maybe I  
12 saw something in the newspaper. I am just trying to  
13 figure out --

14 MR. DENNIS: Just think to yourself.

15 MR. GIUFFRA: Think to yourself. What you  
16 remember is what you remember.

17 BY MR. GIUFFRA:

18 Q You have never seen any of the pages  
19 encompassed within 28928 to 29043 before they were  
20 shown to you by Ms. Sherburne; correct?

21 A No.

22 Q And you don't believe you have ever seen

1 any Rose Law Firm billing materials before?

2 A No.

3 Q You don't believe you have seen Rose Law  
4 Firm billing invoices for any client?

5 A No.

6 Q Have you ever seen any documents that  
7 discuss services provided by the Rose Law Firm to  
8 Madison Guaranty Savings & Loan Association?

9 A No.

10 Q Have you ever seen any documents bearing  
11 the Rose Law Firm letterhead?

12 A Yes, I have.

13 Q When would you have seen documents, prior  
14 to the time you were shown these documents by  
15 Ms. Sherburne, bearing the Rose Law Firm letterhead?

16 A I know at one point there was a listing of  
17 all of Mrs. Clinton's boards and -- boards, and I  
18 don't know, honorary chairs or something, that was on  
19 Rose Law Firm stationery.

20 Q But you can't think of any other documents  
21 that you might have seen that were on Rose Law Firm  
22 stationery?

1 A Just that, that I --

2 Q You knew Mr. Vincent Foster; correct?

3 A Yes.

4 Q Were you familiar with his handwriting?

5 A I don't know.

6 Q Let me show you a document which bears  
7 Bates number DKS N 28933 and there is some handwriting  
8 in red. Does this appear to be Mr. Foster's  
9 handwriting?

10 A I could not tell you.

11 Q Let me show you another page, DKS N 28934.  
12 Does that appear to be Mr. Foster's handwriting?  
13 This is the handwriting.

14 A Oh, yes. I do not know.

15 Q Have you ever met someone by the name of  
16 Beverly Bassett Schaffer?

17 A No.

18 Q Have you ever seen any documents that would  
19 reflect, refer or relate to the issuance of preferred  
20 stock by Madison Guaranty Savings & Loan Association?

21 A No.

22 Q Have you ever seen any documents that would



1 reflect, refer or relate to something called IDC?

2 A No.

3 Q Do you know what the acronym IDC stands  
4 for?

5 A No.

6 Q Have you ever heard of something -- strike  
7 that.

8 Have you ever seen any documents that  
9 reflect, refer or relate to something called Castle  
10 Grande?

11 A No.

12 Q The document bearing Bates numbers DKS  
13 28928 to DKS 28943, have you ever discussed this  
14 document with anyone other than your counsel or  
15 Ms. Sherburne?

16 A No.

17 Q Have you ever discussed with Mrs. Clinton  
18 the discovery of this document in the book room of  
19 the White House?

20 A No.

21 MR. DENNIS: Let me just --

22 (Witness conferred with counsel.)

1 BY MR. GIUFFRA:

2 Q Do you want to amend your answer?

3 A Yes.

4 As you know, Mrs. Clinton was about to  
5 embark on a book tour when the documents were found,  
6 that following week. And we had a discussion about  
7 the fact that we were starting to get questions from  
8 the media about it.

9 Q This was discussions between yourself and  
10 Mrs. Clinton?

11 A Yes. And I want to say Lisa Caputo was  
12 there, but I am not sure. I am just not sure.

13 Q Was this approximately -- was this within  
14 days of the records being found in the book room of  
15 the White House?

16 A Within days.

17 Q Two, three -- break it down this way. Had  
18 you seen the documents yet at the time of this  
19 discussion?

20 A No.

21 Q I can make it simpler. Do you recall if  
22 you had the discussion in -- do you recall in

1 Washington, I think it was approximately the 6th of  
2 January, there was a big snowstorm?

3 A Oh, yes, yes.

4 Q Was it about the time of the big snowstorm?

5 A Either of or right after. I think that if  
6 I -- I am just trying to think in connection with the  
7 book tour, which was I believe that following week.  
8 Well, I will go back to the timing of it, and I will  
9 try and think through that, but I know that we had  
10 set up a number of press interviews, or Simon &  
11 Schuster had, for the book tour and now we knew there  
12 would be other questions about that.

13 And, you know, we had a discussion about  
14 the process of whether or not, you know, we would  
15 just let the book interviews be whatever they turned  
16 out to be, whether it was a discussion of these  
17 records or any other matters, so we had several  
18 discussions like that.

19 Q About whether to limit the scope of the  
20 questions that reporters could put to Mrs. Clinton?

21 A Yes, whether -- right. And, if we did, how  
22 would we do that, given that this was set up by Simon

1 & Schuster. And in the end, we decided that we  
2 couldn't, but definitely we had a discussion about  
3 it. Also --

4 Q And you decided you couldn't limit the  
5 questions that would be asked of Mrs. Clinton?

6 A Yes, and it was a pretty heavy -- a very  
7 heavy press schedule that had been put together for  
8 the book tour. And so we didn't amend it or change  
9 it.

10 And the only other discussion I had with  
11 her about that --

12 Q Let's just go back. Did Mrs. Clinton,  
13 during this first discussion, say anything to you  
14 about these records?

15 A No.

16 Q Did she indicate to you in any way anything  
17 having to do with the circumstances surrounding their  
18 discovery?

19 A No, she did not.

20 Q Okay, go ahead.

21 A I was just talking about the process. We  
22 also knew that, as she went out on the book tour,

1 that we assumed that national press would follow her  
2 and, you know, call questions out to her, break the  
3 book line, that kind of thing, none of the things we  
4 had accounted for when we first thought about this.  
5 But we knew that this question would mean we had to  
6 think through another process for how the book tour  
7 went forward.

8 Q And you said you spoke to Mrs. Clinton a  
9 second time?

10 A Well, this was a -- this was a couple of  
11 times, because we didn't -- we didn't come up with  
12 how it would be. And I know that Lisa was, at some  
13 point, involved in those discussions. They -- the  
14 woman from Simon & Schuster, I mean we had to think  
15 it through.

16 Q And in any of these discussions you had  
17 with Mrs. Clinton, did she at any time indicate to  
18 you anything with regard to the circumstances  
19 surrounding the discovery of the document bearing  
20 Bates numbers DKSX 28928 through 29043?

21 A No, she did not.

22 Q She did not indicate to you her surprise,

1 for example, that the documents were found by  
2 Mrs. Huber?

3 A Well, I think by that time, that there had  
4 already been a statement put out by Mark Fabiani and  
5 I had read it. There wasn't really a need for  
6 discussion.

7 Q Now, did there come a time in approximately  
8 mid-January when Mrs. Clinton gave an interview with  
9 Barbara Walters?

10 A Yes.

11 Q Did you assist Mrs. Clinton in preparing  
12 for that interview?

13 A Yes.

14 Q Did you discuss with Mrs. Clinton questions  
15 that might be asked of her by Barbara Walters?

16 A By Barbara Walters and anybody else.

17 Q And do you recall approximately for how  
18 long you might have met with Mrs. Clinton to prepare  
19 questions and answers for the interviews, with  
20 Barbara Walters and other persons?

21 A Well, for the most part, there wasn't much  
22 preparation for her to be had on these issues, other

1 than us just saying these are the questions that have  
2 come in. Plus at that point I had press who were  
3 calling me about it. And so it was a matter of  
4 saying these are the questions that are coming in,  
5 these are the many different ways they will be coming  
6 in, and you know, expect them.

7 Q Did Mrs. Clinton indicate to you whether  
8 she had ever spoken to Mr. Hubbell about Rose Law  
9 Firm billing records relating to Madison Guaranty?

10 A No.

11 Q Did she indicate to you whether she had  
12 ever spoken to Mr. Foster about Rose Law Firm billing  
13 records relating to Madison Guaranty?

14 A No.

15 Q Did she indicate that she had not spoken to  
16 Mr. Foster about Rose Law Firm billing records  
17 relating to Madison Guaranty?

18 A No.

19 Q Did she indicate to you that she had not  
20 spoken to Mr. Hubbell about Rose Law Firm billing  
21 records relating to Madison Guaranty?

22 A No.

1 Q So your testimony would be she didn't say  
2 anything one way or the other with regard to  
3 Mr. Hubbell or Mr. Foster?

4 A That's correct.

5 Q Did she indicate to you whether she had  
6 reviewed any Rose Law Firm billing records relating  
7 to Madison Guaranty during the 1992 Presidential  
8 campaign?

9 A No.

10 Q Did she discuss with you -- strike that.  
11 Have you ever heard of something called IDC  
12 before today?

13 A Yes, I've heard about it.

14 Q Through news accounts?

15 A News accounts.

16 Q Did you discuss IDC with Mrs. Clinton with  
17 preparing her for her press interviews?

18 A Well, that definitely was a question that  
19 came up. There would be no way that I could prepare  
20 her for it.

21 Q But in the course of her preparation, did  
22 she say anything to you, in your presence, about IDC?



1 A Well, I don't remember specifically, but in  
2 the course of the preparation, I know IDC was a  
3 question that came up, and she probably answered it.

4 Q But do you recall her saying anything  
5 about -- strike that.

6 You are aware that Mrs. Clinton represented  
7 Madison Guaranty when she was a lawyer at the Rose  
8 Law Firm between 1985 and 1986?

9 A Right, I don't know the specific dates,  
10 but --

11 Q Have you on any occasion ever discussed  
12 with Mrs. Clinton her representation of Madison  
13 Guaranty between 1985 and 1986?

14 A No. Only insomuch as prior to her going  
15 out on the book tour or talking with Barbara Walters  
16 and whoever else she talked to, in that setting.

17 Q Were you aware that in 1994, in March, that  
18 the RTC issued a report having to do with the Rose  
19 Law Firm's representation of Madison Guaranty?

20 A The RTC?

21 Q Yes.

22 MR. PORTNOY: Want to put a time frame on

---

1 that, Bob? Was she aware contemporaneously or is she  
2 now aware?

3 MR. GIUFFRA: Okay.

4 BY MR. GIUFFRA:

5 Q In March of 1994, did you have any  
6 discussions with Mrs. Clinton about the fact that the  
7 RTC was conducting an investigation of the Rose Law  
8 Firm's representation of Madison Guaranty?

9 A I don't recall that discussion.

10 Q Do you recall -- would it be your testimony  
11 the only recollection you ever have of discussing the  
12 Rose Law Firm's representation of Madison Guaranty  
13 with Mrs. Clinton is subsequent to the discovery of  
14 the billing records in the book room of the White  
15 House?

16 A Subsequent to that, and the only other  
17 time, if it had come up as a press question before.  
18 And I don't know exactly the context, whether it was  
19 billing records or whatever, but I may have, in the  
20 context of trying to deal with the press questions.

21 Q You are aware that in 1993 -- the end of  
22 1993 and early 1994, there was a Whitewater response

1 team set up at the White House?

2 A Yes.

3 Q You participated in some of those meetings?

4 A Yes.

5 Q Do you recall at any of those meetings the  
6 Rose Law Firm's representation of Madison Guaranty  
7 coming up as an issue for discussion?

8 A I don't recall. I mean, I don't remember.  
9 Could you say the question again, please?

10 MR. GIUFFRA: Read it back

11 (The reporter read the record as requested.)

12 THE WITNESS: No, I don't recall.

13 BY MR. GIUFFRA:

14 Q You know Harold Ickes, I-c-k-e-s?

15 A Yes.

16 Q You know Ms. Sherburne; correct?

17 A Yes, I do.

18 Q Are you aware that Ms. Sherburne reports to  
19 Mr. Ickes?

20 A She reports to Jackson Quinn.

21 Q You are not aware she also reports to  
22 Mr. Ickes?

1 A I think she probably has to report to  
2 Mr. Panetta, Mr. Ickes, and Mr. Bowles -- or I guess  
3 Evelyn Lieberman, but as I understand it, the person  
4 she reports to directly is Jackson Quinn.

5 Q Do you have any understanding as to what  
6 Mr. Ickes's responsibilities are at the White House,  
7 with regard to Whitewater Guaranty --  
8 Whitewater/Madison Guaranty matters?

9 A Whitewater/Madison Guaranty matters?

10 MR. PORTNOY: Can we go off the record for  
11 a minute.

12 (Discussion off the record.)

13 THE WITNESS: Whitewater/Madison Guaranty  
14 issues?

15 BY MR. GIUFFRA:

16 Q You want me to rephrase the question? Do  
17 you have any understanding as to whether Mr. Ickes  
18 had some responsibility for responding to issues  
19 relating to Whitewater, Madison, and related matters?

20 A Oh, yes, his input definitely would be  
21 sought.

22 Q Have you ever discussed with Mr. Ickes

1 anything having to do with the Rose Law Firm's  
2 representation of Madison Guaranty?

3 A Not that I can recall. Do you have a time  
4 frame?

5 Q Any time. I mean, the reason I am asking  
6 the question that way, just so you know, is because  
7 if I start asking you, well in 1993, in 1994, we will  
8 be here until midnight, which obviously we want to  
9 get this done as quickly as possible, so if you had a  
10 conversation just say you did.

11 A That's what I am trying to -- I certainly  
12 have had, with respect to --

13 Q There is no intention to trick you or  
14 anything. I'm trying to basically get out the  
15 information.

16 A I am not trying to trick you.

17 Q I know. I want to make sure it is clear.

18 A I certainly had a conversation with  
19 Mr. Ickes, that I can recall, after the billing  
20 records were discovered.

21 Q Okay. What do you recall about that  
22 conversation?

1 A It mostly -- it had to do with Mrs. Clinton  
2 traveling either to Iowa or New Hampshire, was one of  
3 those that we were -- that she was set to go to.  
4 And, whether or not, with these kinds of questions,  
5 should she proceed to go to New Hampshire and Iowa,  
6 so, yes, I did.

7 Q Do you recall anything more of substance  
8 about the conversation you had with Mr. Ickes after  
9 the discovery of the billing records?

10 A No. Mostly -- it was all process, because  
11 we had a lot of things scheduled and this was  
12 unexpected.

13 Q Going back to Mrs. Clinton's preparation  
14 for press interviews, do you recall any discussion of  
15 a man named Seth Ward coming up?

16 A No.

17 Q Do you know someone by the name of Alston  
18 Jennings?

19 A No.

20 Q You don't think you have ever met Alston  
21 Jennings?

22 A No.

1 Q During the course of Mrs. Clinton's  
2 preparation for Barbara Walters and other press  
3 interviews, do you recall any discussion of Rick  
4 Massey coming up?

5 A Rick Massey. I remember Rick Massey --

6 Q Maybe I can -- have you ever heard the  
7 name -- Rick Massey, just to speed this up, was the  
8 person who was the associate who worked with  
9 Mrs. Clinton on the Madison Guaranty matter.

10 A Right.

11 MR. PORTNOY: You can also state for the  
12 record that Mr. Massey testified publicly before the  
13 Committee, so if you have a recollection of  
14 Mr. Massey please be clear whether that knowledge  
15 arose before or after he testified.

16 MR. GIUFFRA: That's fine.

17 THE WITNESS: Yes. I just only know him as  
18 an associate who did work for Mrs. Clinton.

19 BY MR. GIUFFRA:

20 Q Do you recall any discussion of Mr. Massey  
21 during the course of the preparation sessions for  
22 Mrs. Clinton's interview?

1 A I don't remember -- I don't remember a  
2 discussion. I do remember -- I do remember something  
3 to the effect of her saying that an associate had  
4 done work, done the majority of work, on -- I don't  
5 know, whatever it was, Madison account or whatever.

6 Q Did she say anything during these  
7 preparation sessions about who was responsible for  
8 bringing Madison in as a client of the Rose Law Firm?

9 A I don't recall that.

10 Q What is the -- in terms of the paper flow  
11 to Mrs. Clinton, if someone were to send a memo to  
12 Mrs. Clinton, would it pass by your desk?

13 A Not necessarily.

14 Q So she has things that are directed to her  
15 that you don't see?

16 A Can be the case.

17 Q Is that the majority of documents that she  
18 sees or -- I mean, do you have a procedure in place  
19 for the communication of information to Mrs. Clinton?

20 A Yes, sometimes it -- I mean, it just  
21 varies.

22 Q Would most memoranda from White House staff



1 to Mrs. Clinton be routed through you, or would you  
2 see a copy of such memoranda?

3 A It would depend on what the subject matter  
4 was.

5 Q Well, if the subject matter were anything  
6 having to do with Whitewater or Madison Guaranty?

7 A That would probably be between Kendall and  
8 White House counsel.

9 Q Let's go back to the period 1993, 1994,  
10 rather than more recent events, would you have seen  
11 memoranda that was directed to the First Lady  
12 relating to Madison Guaranty, Whitewater and the Rose  
13 Law Firm?

14 MR. PORTNOY: I am just going to state,  
15 again for the record, our understanding. This  
16 deposition was going to encompass the billing records  
17 and the discovery of the billing records and we are  
18 getting far afield.

19 MR. GIUFFRA: I will tie it up very  
20 quickly.

21 MR. PORTNOY: I would ask you to.

22 THE WITNESS: I don't recall.

1 BY MR. GIUFFRA:

2 Q You don't know whether you would have seen  
3 such memos?

4 A Right, I don't recall. 1994?

5 Q 1993, 1994.

6 A I don't recall.

7 Q Let me show you a document which was  
8 produced -- it is actually in the Banking Committee's  
9 record from the hearings that were held in the summer  
10 of 1994. The number is 1720 through 1727. It is a  
11 memo to the First Lady from Harold Ickes, dated March  
12 1, 1994. Have you ever seen this?

13 I should also say on the record attached,  
14 to Mr. Ickes, is a memo to Mr. Ickes from Neil  
15 Eggleston, dated February 28th, 1994.

16 A Well, I don't remember this top part.

17 Q That's the first page bearing number 1720?

18 A Yes. I don't remember seeing this. I  
19 don't remember seeing this.

20 But, I do remember seeing this -- this  
21 looks familiar to me. I don't know when I saw it.

22 MR. PORTNOY: By "this," what do you mean?

1 THE WITNESS: Oh, I'm sorry.

2 BY MR. GIUFFRA:

3 Q The memo from Mr. Eggleston to Mr. Ickes  
4 that's dated February 28th, 1994, re: FDIC and RTC  
5 issues; is that --

6 A Yes, and to tell you the truth, I don't  
7 even remember -- I don't remember a top part of  
8 this. But there's -- I remember seeing something  
9 like it. I remember something like this.

10 Q Some document discussing FDIC and RTC  
11 reports relating to the Rose Law Firm?

12 A Yes, and I don't know when I saw it, but I  
13 do remember seeing that.

14 Q Do you remember any discussions you might  
15 have had with anyone about this memo?

16 A Oh, no.

17 Q Do you have any recollection as to how this  
18 memo would have come to your attention?

19 A No. I don't because I don't remember when  
20 I saw it.

21 Q Let me show you something. We don't have a  
22 Bates number. It's a report of the investigation

1 from the Office of Inspector General/Resolution Trust  
2 Corporation, and the investigation concerns the Rose  
3 Law Firm. It is actually a multivolume document and  
4 we are giving you volume 3.

5 Have you ever seen this or anything similar  
6 to that?

7 MR. PORTNOY: The record should reflect it  
8 is a Xeroxed copy rather than the bound volume.

9 MR. GIUFFRA: Yes, I apologize for that.

10 THE WITNESS: No, I have never seen it.

11 BY MR. GIUFFRA:

12 Q Let me show you a newspaper article from  
13 the Washington Post dated August 5, 1995. Do you  
14 recall seeing this article?

15 A Oh, I probably read it.

16 Q Do you recall ever discussing this article  
17 with Mrs. Clinton?

18 A No, I wouldn't discuss it.

19 MR. PORTNOY: Was that that you -- was that  
20 response that you don't recall discussing it with  
21 her, or you recall you did not discuss it with her?

22 THE WITNESS: I wouldn't discuss it. I

1 would have read it.

2 BY MR. GIUFFRA:

3 Q Why would you not discuss it with  
4 Mrs. Clinton?

5 A Because if it had something to do with this  
6 issue, I'd think that, as between Mr. Kendall and the  
7 White House counsel, there are enough people to  
8 discuss it with.

9 Q Did there come a time either in 1993 or  
10 1994 or 1995 when you and Mrs. Clinton made a  
11 conscious decision that you would not participate  
12 in -- strike that.

13 Since Mr. Kendall was retained by the  
14 Clintons, have you participated in meetings with  
15 Mr. Kendall and Mrs. Clinton relating to  
16 Whitewater/Madison Guaranty issues?

17 A No. Although, in the subsequent -- no --  
18 but the discovery of the billing records subsequent  
19 or -- yes, in talking about the press situation,  
20 since Mr. Kendall, I guess, you know, discussed these  
21 issues and he wanted to hear what she had to say,  
22 for -- for the book tour or whatever, so he sat

1 there.

2 Q So he was present at the meeting --

3 A Part of it.

4 Q In which you and Ms. Caputo and  
5 Mrs. Clinton, discussed --

6 A Not discussed. Because my sense -- this --  
7 and let me just -- for Lisa and I, it is a process  
8 issue.

9 Because we don't know anything about the  
10 substance, it's -- the substance is discussed between  
11 Mrs. Clinton and her lawyers, but for us it is a  
12 matter of these are the questions, you know, how are  
13 you responding, you know, kind of situation; it is  
14 not a discussion.

15 MR. DENNIS: Can I ask you, are we finished  
16 with the billing records at this point?

17 MR. GIUFFRA: Almost. I want to just come  
18 back to that one last time very quickly.

19 MR. DENNIS: Can you tell me where we are  
20 going because we would like to finish up. We were  
21 told we would be out of here by 5:30, 6:00.

22 MR. GIUFFRA: I think I can be done very

1 quickly, within a matter of 15 minutes.

2 MR. DENNIS: I would like to see this tied  
3 in at least with the billing records because you can  
4 go on all night if you are going into every  
5 discussion she had with Mrs. Clinton in the potential  
6 area of Whitewater and Madison Guaranty.

7 MR. GIUFFRA: I don't have any interest in  
8 doing that. Off the record.

9 (Discussion off the record.)

10 BY MR. GIUFFRA:

11 Q You don't recall anything further of  
12 substance --

13 A No.

14 Q -- of the preparation sessions you have had  
15 with Mrs. Clinton regarding the discovery of the  
16 billing records?

17 A No, I don't.

18 Q Have you ever discussed the discovery of  
19 the document bearing Bates numbers 28928 through  
20 29043 with Carolyn Huber?

21 A No.

22 Q Has Mrs. Clinton said anything to you about

1 Carolyn Huber's discovery of these billing records?

2 A No.

3 Q Has anyone ever asked you to participate in  
4 a search for documents that might be responsive --  
5 strike that.

6 Have you ever been asked by Mr. Kendall to  
7 participate in a search for documents that might be  
8 responsive to subpoenas issued by investigatory  
9 agencies relating to Madison Guaranty or the Rose Law  
10 Firm?

11 A No.

12 MR. GIUFFRA: Off the record.

13 (Discussion off the record.)

14 BY MR. GIUFFRA:

15 Q You have been to the so-called book room on  
16 the third floor of the White House residence; right?

17 A Yes.

18 Q Do you recall being there in August of  
19 1995?

20 MR. DENNIS: That area has already been  
21 covered. It was covered while you weren't here.

22 MR. PORTNOY: I believe Ms. Williams



1 testified she does not recall having been in the book  
2 room in August, but does recall having been in the  
3 book room sometime after Mrs. Clinton returned from  
4 Beijing in September.

5 BY MR. GIUFFRA:

6 Q That's your testimony?

7 A Right, not word for word, but we spent a  
8 fair amount of time on it.

9 MR. GIUFFRA: No further questions -- just  
10 one last question.

11 BY MR. GIUFFRA:

12 Q Do you have any knowledge with regard to  
13 the location of the document bearing Bates numbers  
14 28928 to 29043 prior to January 4th, 1996?

15 A That's this one?

16 Q Yes.

17 A No.

18 MR. PORTNOY: The record should reflect the  
19 witness pointed to the documents produced to the  
20 committee by Mr. Kendall.

21 MR. GIUFFRA: The so-called Rose Law Firm  
22 billing records.

1 BY MR. GIUFFRA:

2 Q You never saw them in Mr. Foster's office?

3 A No.

4 MR. PORTNOY: I have no questions,  
5 Ms. Williams. We will call it a night.

6 THE WITNESS: Thank you.

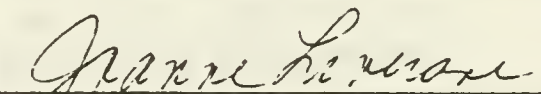
7 (Whereupon, at 5:51 p.m., the deposition  
8 was concluded.)

9  
10 -----  
11 MARGARET A. WILLIAMS  
12  
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires

JULY 31, 2000

**DEPOSITION OF JOHNNY B. MITCHUM  
IN RE: S. RES. 120**

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**FRIDAY, FEBRUARY 9, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of JOHNNY B. MITCHUM, called for examination pursuant to notice of deposition, at 10:20 a.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMON-SKEY, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.  
Majority Associate Special Counsel  
JAMES S. PORTNOY, Esq.  
Minority Associate Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

G. ROBERT HARDIN, Esq.  
Hardin & Grace  
410 West Third  
Suite 200  
Little Rock, Arkansas 72201  
On behalf of the Deponent.

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## 1 PROCEEDINGS

2 Whereupon,

3 JOHNNY B. MITCHUM

4 was called as a witness and, having first been duly  
5 sworn, was examined and testified as follows:

## 6 EXAMINATION

7 BY MR. O'CALLAGHAN:

8 Q Good morning. My name is Michael  
9 O'Callaghan. I am associate special counsel for the  
10 Majority on the Special Committee. To my left is Jim  
11 Portnoy, who is an associate special counsel for the  
12 Minority.13 This is a deposition which is being  
14 conducted pursuant to Senate Resolution 120. The  
15 resolution establishes a special committee  
16 administrated by the Banking Committee to conduct an  
17 investigation involving Whitewater Development  
18 Corporation, Madison Guaranty Savings & Loan  
19 Association, Capital Management Services,  
20 Incorporated, the Arkansas Development Finance  
21 Authority and other related matters, in addition,  
22 with regard to bond underwriting contracts involving1 Lasater & Company and the Arkansas Development  
2 Finance Authority and Arkansas State Police. The  
3 Majority and the Minority have agreed that it also  
4 falls within the scope of the resolution.5 This deposition is in advance of public  
6 hearings likely in February or early March, depending  
7 on how long the committee is authorized to continue.  
8 It is likely you will be asked to testify at public  
9 hearings as well.10 We will ask you a series of questions  
11 today. You are testifying under oath. You were just  
12 sworn in. If you don't understand a question, please  
13 let us know and we will be happy to rephrase it for  
14 you. Also if you need a break at any time, let us  
15 know. The stenographer is preparing a record of the  
16 questions and answers. The deposition will be  
17 treated as committee confidential until the  
18 commencement of the hearings.19 Prior to the hearings, you will receive a  
20 letter from the Committee telling you you may review  
21 your transcript, and we will provide you with an  
22 errata sheet where you can make corrections to the

1 transcript if you feel the are necessary. If you are  
2 also called to testify at the public hearing, you  
3 will be permitted to have a copy of your deposition  
4 transcript to review before the hearings.

5 You may be represented by counsel. Are  
6 you represented by counsel?

7 A Yes.

8 MR. O'CALLAGHAN: Counsel, please identify  
9 yourself.

10 MR. HARDIN: Bob Hardin with the firm of  
11 Hardin & Grace in Little Rock, Arkansas.

12 BY MR. O'CALLAGHAN:

13 Q With regard to format, objections to the  
14 form of the question will be noted for the record.  
15 Counsel may object on grounds of privilege and  
16 relevance. The Committee chairman may rule on  
17 objections where the witness refuses to answer a  
18 question.

19 Please state and spell your full name for  
20 the record.

21 A Johnny, J-o-h-n-n-y, Burge, B-u-r-g-e,  
22 Mitchum, M-i-t-c-h-u-m.

1 Q Have you spoken with anyone other than your  
2 counsel prior to this deposition with regard to the  
3 deposition?

4 A No.

5 Q Did you do anything to prepare for the  
6 deposition today?

7 A Other than speak with him, no.

8 Q Do you have any documents?

9 A No.

10  
11  
12 Q Are you currently employed?

13 A Yes.

14 Q Where are you employed?

15 A I am chairman and CEO of a company called  
16 JBM Enterprises and also managing partner of a  
17 limited liability company, Quapaw Restoration  
18 Associates, LLC.

19 Q What is your current business address?

20 A Suite 217, The Lafayette Building, 523  
21 South Louisiana, Little Rock, Arkansas, 72201.

22 Q Did you attend college?

1 A Yes.

2 Q Where did you go to school?

3 A Bachelor's degree at the University of  
4 Arkansas in Fayetteville, graduated in 1969; MBA from  
5 the University of Central Arkansas, 1989.

6 Q Do you possess any professional licenses?

7 A CPA. I also have a real estate license. I  
8 don't know whether that is relevant.

9 MR. PORTNOY: Not to this portion of the  
10 proceedings.

11 THE WITNESS: I didn't have any Whitewater  
12 property listed.

13 BY MR. O'CALLAGHAN:

14 Q Between January of 1982 and August 1986,  
15 where were you employed?

16 A 1982 through June of 1985, I was with the  
17 accounting firm of Carter, Mitchum & Company in  
18 Batesville, Arkansas. And then from August 1983  
19 through August of 1986, I was with Arkansas College  
20 in Batesville, Arkansas. It is now Lyon College,  
21 L-y-o-n, College.

22 Q During the time period January 1982 through

---

1 August 1986, did you serve on any state boards or  
2 commissions?

3 A Arkansas State Police Commission.

4 Q When were you first named to that?

5 A Let's see. I believe that would be January  
6 of 1982.

7 Q How long did you serve on that commission?

8 A Seven years.

9 Q Through 1989?

10 A Yes.

11 Q How long is a term as commissioner?

12 A Seven years.

13 Q And is that an appointed position?

14 A It is.

15 Q Who appoints the members to the commission?

16 A The governor.

17 Q Could you describe how you came to be  
18 commissioner? Did you seek it out? Were you  
19 nominated by somebody? How it came about?

20 A I asked then-Governor Frank White to  
21 appoint me.

22 Q Are commissioners removable at any time?

1 Is it a set seven-year term?

2 A I would assume it is a set seven-year term,  
3 unless you commit malfeasance in office or whatever,  
4 or miss -- I believe if you miss three consecutive  
5 meetings that are unexcused, then you may be  
6 removed. I believe that. I wouldn't swear to that,  
7 but I think that is the law.

8 MR. PORTNOY: Is that a provision unique to  
9 the Police Commission or is that state law?

10 THE WITNESS: I think it is unique -- each  
11 commission or board has its own regulations regarding  
12 that. I believe that is the State Police  
13 Commission's rule on that.

14 BY MR. O'CALLAGHAN:

15 Q Who can remove someone from the commission?

16 A The governor.

17 Q Anyone else?

18 MR. PORTNOY: I'm sorry. Just to be clear,  
19 is that only under the circumstances that you have  
20 identified?

21 THE WITNESS: I would assume so.

22 MR. PORTNOY: So for cause, in effect?

---

10

1 THE WITNESS: Yes, for cause.

2 BY MR. O'CALLAGHAN:

3 Q Can anyone else remove someone from the  
4 commission?

5 A I don't know the answer to that.

6 Q If you don't know the answer, you can just  
7 say I don't know. That's fine.

8 A Okay. I don't know.

9 Q Are you aware of a bond underwriting that  
10 was undertaken in 1985 to finance the police radio  
11 network?

12 A Yes.

13 Q How are you familiar with that?

14 A Well, the enabling legislation -- I'm not  
15 sure when it was passed, I guess it would have been  
16 in the '85 legislative session -- charged the State  
17 Police Commission with the responsibility of  
18 obtaining a new radio communications system for the  
19 state. As a part of that charge, it was our  
20 responsibility to provide the financing.

21 Q When did you first learn that the State  
22 Police were considering acquiring a new



1 communications system?

2 A It would have been during the legislation  
3 session. Even though it had been talked about, for  
4 example, it was badly needed. So it had been talked  
5 about from day one.

6 Q When you say "talked about from day one,"  
7 what time period are you talking?

8 A Well, from the moment I went on the  
9 commission, I was made aware that the State Police  
10 had an antiquated system.

11 Q Do you know where the idea or the impetus  
12 came for the enabling legislation that finally  
13 proposed a new system?

14 A It probably filtered down to the  
15 legislature and the governor from the commission and  
16 from the director of the State Police.

17 Q Where you or any member of the commission  
18 involved in helping draft or advise with the drafting  
19 of the enabling legislation?

20 A Not to my knowledge.

21 Q Was there a specific committee set up to  
22 deal with issues involved in putting a new

1 communications system together?

2 A After the legislation was passed? You mean  
3 a subcommittee of the commission?

4 Q Yes.

5 A Yes.

6 Q When was that established?

7 A I can't give you an exact date, but  
8 sometime after the legislative session. It might  
9 have been April or May. I'm not sure.

10 Q Did the State Police undertake any efforts  
11 to furnish or identify a possible communications  
12 system before the enabling legislation was passed?

13 A Oh, yes.

14 Q When did that begin?

15 A I'm not sure, but I'm sure it had begun  
16 previous to the legislation.

17 Q What had you heard about that before the  
18 legislation?

19 A I'm sorry. I don't understand your  
20 question.

21 Q With regard to efforts undertaken by the  
22 State Police to furnish and identify possible

1 communications systems, what was the basis of your  
2 knowledge that that occurred before the enabling  
3 legislation?

4 A Okay. From time to time, Major Jim Tyler  
5 would report to the commission on information that he  
6 had gathered from other states and through the  
7 national state police organizations relative to  
8 state-of-the-art radio communication systems.

9 Q Were those reports given during commission  
10 meetings, informally, both?

11 A Yes.

12 Q I'm sorry. Which one?

13 A Both.

14 Q Was Major Tyler charged by anyone to do  
15 this, or was this an ongoing process that the police  
16 were constantly looking at, or was there a specific  
17 task he was given?

18 A I'm not sure who gave him the assignment.  
19 Probably the director.

20 Q Who was the director at the time?

21 A Colonel Tommy Goodwin.

22 Q Have you ever heard that Colonel Goodwin

1 made a suggestion to the governor at a state trooper  
2 funeral that the state needed a new communication  
3 system?

4 A I would assume that he talked to him about  
5 it at every opportunity. Funerals really kind of  
6 brought this issue to a head, because we had one or  
7 more troopers killed in action because they couldn't  
8 talk to their home base with the antiquated system we  
9 had.

10 Q But with regard to the question I asked,  
11 whether you had knowledge of the conversation that  
12 occurred.

13 A No.

14 Q Had you ever heard about it?

15 A No.

16 Q Did anyone tell you about it?

17 A No.

18 Q Was there a legislative committee set up to  
19 study communications systems for the State Police,  
20 that you are aware of?

21 A I think there was, but I can't remember the  
22 circumstances surrounding that.

1 Q I would like to show you a document. This  
2 may help you.

3 A Okay.

4 Q Bates stamped DKS N 027458 through 464. It  
5 is a multipage document on state of Arkansas  
6 Department of Computer Services letterhead. It is  
7 addressed to the Honorable Knox Nelson. The cover  
8 letter is a little more than two pages, signed by  
9 Tommy L. Goodwin, director, Arkansas State Police,  
10 and John A. Kennedy, director, Department of Computer  
11 Services. Then there is an attachment dated  
12 September 5, 1984 which is entitled "Arkansas  
13 Telecommunications Program."

14 I will give a copy to you and your  
15 counsel. Take a minute to review and let me know  
16 when you have had a chance to look at the document.  
17 I will ask you some general questions about it.

18 A Okay.

19 (Witness examined the document.)

20 MR. O'CALLAGHAN: We are back on the  
21 record.

22 BY MR. O'CALLAGHAN:

---

1 Q Mr. Mitchum, have you ever seen the  
2 document I just handed to you?

3 A I probably have. I don't remember seeing  
4 it.

5 Q Why do you think you have probably seen it  
6 before?

7 A It was probably presented to the commission  
8 at some point.

9 Q Do you know what this document represents?  
10 MR. HARDIN: Can I go off the record just a  
11 minute?

12 MR. O'CALLAGHAN: Certainly.

13 (Discussion off the record.)

14 MR. O'CALLAGHAN: Back on the record.

15 BY MR. O'CALLAGHAN:

16 Q After reviewing this document, does it help  
17 put in reference the time when the first thoughts  
18 were given to putting together a new communication  
19 system?

20 A Yes.

21 Q What is your -- after having reviewed the  
22 document and having your recollection refreshed, what

1 is your best recollection of when the first efforts  
2 were made to establish a new communication system?

3 A Well, this is dated in September of 1984.

4 So, I would assume that the director reported to us  
5 at commission meetings that this was in process.

6 Q Does this help you recall how this process  
7 was first begun?

8 A No, not really.

9 MR. PORTNOY: Also, if I could just ask you  
10 to clarify. Are you speaking about the formal  
11 procurement process or the discussions within the  
12 department?

13 THE WITNESS: Well, the discussions started  
14 the day I went on the commission and have been going  
15 on for many years.

16 BY MR. O'CALLAGHAN:

17 Q The question was geared to elicit a  
18 response with regard to the formal efforts taken to  
19 start organizing, getting a new telecommunications  
20 system together for the police.

21 A I suppose that in the fall of 1984, as this  
22 was in process, the director reported to the

1 commission that as a result of the study, that  
2 enabling legislation would go before the legislature  
3 in the 1985 session.

4 Q So, other than being informed that enabling  
5 legislation would go before the legislature, was the  
6 commission consulted with regard to the legislation?

7 A No, not on specifics.

8 Q Who was involved in putting together the  
9 enabling legislation?

10 A I'm not sure. I'm not sure.

11 Q Was the commission approached by any  
12 financial firms with regard to helping provide a  
13 financing structure for a new radio system, before  
14 the enabling legislation was enacted?

15 A Not to my knowledge.

16 Q How about afterwards?

17 A Yes.

18 Q Do you recall how that first came about?

19 A We had a commission meeting shortly after  
20 the legislation was passed, and I believe interested  
21 underwriters were asked to be at the meeting and  
22 listen to any information that might come out about



1 that.

2 Q I want to show you another document. It is  
3 a multipage document bearing Bates stamps DKSX 017938  
4 through 017940.

5 MR. HARDIN: Can I ask another question?

6 MR. O'CALLAGHAN: Sure.

7 MR. HARDIN: When you do send a deposition  
8 for review, will all the exhibits that you have  
9 discussed here be affixed?

10 MR. O'CALLAGHAN: No, they will not be.  
11 The committee has an agreement with the people who  
12 have provided the documents that they will be treated  
13 as confidential. We are not allowed to release  
14 them.

15 MR. HARDIN: It is kind of difficult to  
16 analyze a deposition without the exhibits to which  
17 you are referring at the time. I just wanted to know  
18 that.

19 MR. O'CALLAGHAN: That's the procedure that  
20 has been put in place.

21 BY MR. O'CALLAGHAN:

22 Q The document is on T.J. Raney & Sons,

1 Incorporated letterhead dated January 4, 1985. It is  
2 addressed to Mr. David Mosley, Arkansas State  
3 Police. It is signed by Paul B. Young, vice  
4 president.

5 A Do you want me to read this in detail?

6 Q I would read through it.

7 A Okay.

8 (Witness examined the document.)

9 Q Mr. Mitchum, have you seen the document I  
10 just showed you before?

11 A No.

12 Q Were you involved at all in dealing with  
13 the underwriting firms that made proposals for the  
14 financing of the police radio system?

15 A No.

16 Q Did you have any contact with them at all,  
17 anyone at the firms?

18 A During the RFP process, of course, all of  
19 them were calling me daily.

20 Q Are you familiar with David Mosley?

21 A Yes.

22 Q Who is David Mosley?

1       A    He was the chief fiscal officer for the  
2 State Police.  
3       Q    Did he have contact with underwriting  
4 firms?  
5       A    Obviously.  
6       Q    Do you have any knowledge independent of  
7 this letter?  
8       A    No.  
9       Q    Did you discuss the financing proposals  
10 with him at any time?  
11      A    No.  
12      Q    When was the first time that you became  
13 aware of financing proposals that were forwarded for  
14 the state radio system?  
15      A    At the commission meeting, when it was  
16 announced that we needed to send out RFPs.  
17      Q    How did you become aware of it --  
18           MR. HARDIN: What is an RFP?  
19           THE WITNESS: Request for proposal.  
20           MR. PORTNOY: Off the record.  
21           (Discussion off the record.)  
22           BY MR. O'CALLAGHAN:

---

1       Q    You said you first found out about the  
2 financing proposals -- excuse me.  
3           Read back the last question.  
4           (The reporter read the record as requested.)  
5           BY MR. O'CALLAGHAN:  
6       Q    You said you first became aware of the  
7 finance proposals for the state radio commission  
8 during commission hearings; is that right?  
9       A    Yes.  
10      Q    Who was the -- who brought that to your  
11 attention?  
12      A    Major Tyler probably introduced the  
13 subject, and then he would have referred to David  
14 Mosley, who was the finance person.  
15      Q    Was there anyone on the commission who had  
16 been dealing with these issues before they were  
17 brought up in that meeting?  
18      A    Not to my knowledge.  
19      Q    Are you aware of anyone in the State Police  
20 other than Mr. Mosley who was involved in dealing  
21 with underwriters?  
22      A    No.

1 Q Are you familiar with anyone by the name of  
2 Mahlon Martin?

3 A Yes.

4 Q Who is Mahlon Martin?

5 MR. PORTNOY: For the record, I believe  
6 that is M-a-h-l-o-n, the first name.

7 THE WITNESS: Mahlon was -- let me think  
8 about that a minute. At that time -- you want to  
9 know what he was doing at that time?

10 BY MR. O'CALLAGHAN:

11 Q That would be fine, thanks.

12 A I think he was the director of finance and  
13 administration for the state of Arkansas, I believe,  
14 at that time.

15 Q During the 1984-1985 time period, did you  
16 have any contact with him?

17 A Just I knew him and I would maybe see him  
18 at social functions or things like that, but that was  
19 the only contact.

20 Q Did you have any discussions with him with  
21 regard to financing for the radio network?

22 A No.

1 Q Did you have any discussions, again during  
2 the same time period, 1984 through 1985, did you have  
3 any discussions with anyone in the Governor's office  
4 with regard to the state radio project?

5 A No.

6 Q Did you have any discussions with anyone at  
7 any time in the Governor's office with regard to the  
8 State Police radio project?

9 A No.

10 Q Did you have any -- did members of the  
11 Governor's staff or anyone from the Governor's office  
12 attend any of the committee meetings where the radio  
13 project was discussed?

14 A Yes.

15 MR. PORTNOY: Did you mean the commission  
16 or the subcommittee of the commission or both?

17 BY MR. O'CALLAGHAN:

18 Q Let's start with the commission.

19 A Yes to both.

20 Q Who from the Governor's office attended  
21 those meetings?

22 A I don't remember. At one time we had a

1 female person, and at one time we had a -- I really  
2 don't remember either one of them's name.

3 Q Was one of the names Michael Gaines?

4 A I believe so, yes.

5 MR. HARDIN: I believe what you are  
6 asking -- are you asking if he remembers if Michael  
7 Gaines attended one of the meetings?

8 MR. O'CALLAGHAN: Correct.

9 THE WITNESS: Yes.

10 BY MR. O'CALLAGHAN:

11 Q Did you have any involve -- did you have  
12 any discussions with Mr. Gaines at any of the  
13 meetings?

14 A I don't remember.

15 Q What was the level of participation of  
16 members of the Governor's staff during the committee  
17 meetings?

18 A As I recall, they were just there,  
19 primarily just listened.

20 Q Did they provide any guidance as to what  
21 the Governor's office would like to see done with  
22 regard to the project?

1 A No.

2 Q Any suggestions?

3 A No.

4 Q Did they ever speak before the committee or  
5 the commission?

6 A No. I think they were primarily there to  
7 listen and report back to the Governor, liaison  
8 capacity.

9 MR. O'CALLAGHAN: Off the record.

10 (Recess.)

11 BY MR. O'CALLAGHAN:

12 Q We have been talking about the State Police  
13 Commission and also discussed the committee. I don't  
14 think we identified the name -- what was the proper  
15 name of the committee that was set up to deal with  
16 the State Police radio financing?

17 A I don't recall specifically.

18 Q Was it called the financial screening  
19 committee? Do you recall?

20 A I don't recall.

21 Q How was the committee set up that dealt  
22 with the State Police communication system?



1 A Do you mean after the legislation was  
2 passed?

3 Q After the legislation was passed, yes.

4 A I believe that three or four commissioners  
5 were appointed to this committee, as well as the  
6 chief fiscal officer. And it seems like I recall a  
7 representative of state purchasing, and that's all I  
8 recall.

9 Q Who appointed the members of the committee?

10 A The chairman of the commission would have  
11 done that.

12 Q And who was that at the time?

13 A I believe it was Billy Simpson.

14 Q What was Mr. Simpson's background?

15 A I don't know all of his background. I  
16 understand he was in the vending machine business,  
17 and he, I believe, was involved in food brokerage.

18 Q Do you know what criteria were used to  
19 select members of the committee?

20 A No. Really, I assume that he appointed me  
21 because of my finance background.

22 Q Did he tell you that?

1 A I don't recall.

2 Q I would like to show you another multipage  
3 document. It is copies of -- it is copy of the  
4 minutes of the Arkansas State Police Commission  
5 meeting, April 4, 1985, bearing Bates stamps DKS  
6 027582 through 27586.

7 A Did you want me to read this in detail?

8 Q I'm going to direct your attention to  
9 specific portions.

10 A Okay.

11 (Witness examined the document.)

12 Q This is minutes of an April 4 meeting. Did  
13 you attend that meeting?

14 A Yes.

15 Q Is this the first meeting where a  
16 discussion of financing for the police radio system  
17 was discussed?

18 A I'm not sure.

19 Q I would like to direct your attention to  
20 the first page where it says "others attending."

21 A Yes.

22 Q There is a list there of different people.

1 I asked you earlier -- the first one listed is Mike  
2 Gaines, office of the Governor. I asked you if that  
3 was a person from the Governor's office who attended  
4 the meetings. That is consistent with your  
5 recollection?

6 A Yes.

7 Q I would like to ask you about the last  
8 portion of that "others attending." It reads  
9 "representatives from Lasater & Company, E.F. Hutton  
10 & Company and T.J. Raney & Sons." And under that is  
11 a list of names, Michael Drake, Anne Ritchey,  
12 Mr. Bill Woodyard, and Mr. Paul Young and Mr. Robert  
13 Brown.

14 Do you recall why those individuals were at  
15 the meeting?

16 A No.

17 Q Do you know if they were invited to the  
18 meeting?

19 A No.

20 MR. HARDIN: Can I ask -- it is a public  
21 meeting; correct?

22 THE WITNESS: Yes.

1 BY MR. O'CALLAGHAN:

2 Q Do you know who Michael Drake is?

3 A Yes.

4 Q Who is Michael Drake?

5 A He was with the Lasater Company.

6 Q How do you know him?

7 A I met him at this meeting.

8 Q Had you met him before that?

9 A I don't recall.

10 Q Was the first time you met him in  
11 connection with your duties on the State Police  
12 Commission?

13 A I don't know the answer to that.  
14 Probably.

15 Q Other than this meeting on April 4, did you  
16 ever have any other contact with Mr. Drake?

17 A Did you say before or after? I'm not sure  
18 about before. I may have met him at a party or  
19 something. After, of course, I had several occasions  
20 to be around him.

21 Q Did you see him outside of State Police  
22 Commission meetings?

1 A I might see him on the street or  
2 something. Little Rock is a small place.

3 Q Did you have any meetings with him?

4 A No.

5 Q Did you ever visit his office?

6 A No.

7 Q Did he ever move through your office?

8 A I don't think so. I don't recall.

9 Q Did you have any conversations with him  
10 outside of the commission meetings?

11 A At one time or another, virtually all of  
12 the bond-related people called each and every one of  
13 the commissioners.

14 Q Do you have a specific recollection of any  
15 conversations you had with him?

16 A No.

17 Q You said at a certain time that many of the  
18 bond-related people called you. What would they be  
19 calling you about?

20 A They wanted the bond business.

21 Q Would you characterize these as lobbying  
22 efforts or sales --

1 A I would call them lobbying efforts. They  
2 are sales folks.

3 Q Did Mr. Drake ever make an offer to do a  
4 direct sales pitch to you at your office?

5 A I don't recall.

6 Q Did he offer to have you come over to  
7 Lasater & Company?

8 A I don't recall.

9 Q Did you ever interact with Mr. Drake  
10 socially?

11 A Not really.

12 Q Could you be more specific?

13 A No.

14 Q Did you ever attend the same dinner parties  
15 or cocktail parties?

16 A I don't recall. Probably.

17 Q Do you belong to any clubs, social clubs or  
18 sports clubs; this is during the same time period,  
19 1985 through 1986?

20 A I belonged to the Batesville Country Club  
21 at that time.

22 Q Anywhere else?

1 A Intermittently I was a member of the  
2 Capital Club in Little Rock. I don't recall whether  
3 I was at that time.

4 Q Was Mr. Drake a member of either Batesville  
5 Country Club or the Capital Club?

6 A He was not a member of the Batesville  
7 Country Club, and I don't know about the Capital  
8 Club.

9 Q Other than Mr. Drake, did you have any  
10 contact with anyone at Lasater & Company during 1985  
11 and 1986?

12 A No.

13 Q Do you know anyone by the name of Patsy  
14 Thomasson?

15 A Yes.

16 Q How do you know her?

17 A I first met Patsy it must have been in the  
18 '70s when she was appointed to the highway  
19 commission.

20 Q How did you meet her?

21 A I was active in the Batesville Chamber of  
22 Commerce. I was a practicing CPA in Batesville at

1 that time. In Arkansas there are five highway  
2 commissioners, and from time to time they have  
3 hearings on highway matters around the state. I  
4 probably met her at one of those.

5 Q Do you think it was in connection with a  
6 highway board meeting?

7 A Yes.

8 Q Did you have any contact with Ms. Thomasson  
9 during that 1985-1986 time period?

10 A No.

11 Q By contacts I mean discussions, meetings,  
12 any kind of communication.

13 A No. I may have run into her on the street  
14 and said hello, but no discussions.

15 Q I would like to have you look at some of  
16 the other names that are listed. The next one is  
17 Ms. Anne Ritchey. Do you know who she is?

18 A Yes.

19 Q Who is Anne Ritchey?

20 A She is an attorney, I believe, with one of  
21 the law firms. I'm not sure which one.

22 Q Do you know why she was in attendance at



1 the meeting?

2 A I assume she was representing -- no.

3 Q How about Bill Woodyard; are you familiar  
4 with that name?

5 A Familiar, but I don't recall who or what he  
6 is.

7 Q Paul Young?

8 A Yes.

9 Q Who is Paul Young?

10 A Paul Young is with the T.J. Raney -- he was  
11 with the T.J. Raney Company.

12 Q And how do you know Mr. Young?

13 A Well, I met him in connection with the bond  
14 deal. Subsequent to that, I have seen him at little  
15 league baseball games in Little Rock.

16 MR. PORTNOY: Off the record.

17 (Discussion off the record.)

18 BY MR. O'CALLAGHAN:

19 Q For clarity sake, and maybe I -- I  
20 apologize. I was just informed that I was using the  
21 1985-1986 time frame. I dealt earlier with the  
22 1984-85 time frame. Let's deal with that, unless I

1 say otherwise.

2 A Okay, fine.

3 Q I think I may have begun the 1985-86 time  
4 frame when I asked whether you belonged to any  
5 clubs. Did you belong to any additional clubs in  
6 1984?

7 A No.

8 Q Did you have any contact with Patsy  
9 Thomasson in 1984 through 1985?

10 A No.

11 Q I just asked you about Paul Young, how you  
12 knew him. Did you know him previous to meeting him  
13 in connection with the police bond underwriting?

14 A No.

15 Q Did you have any contact with him outside  
16 of committee meetings?

17 A No.

18 Q Did you talk to him on the phone?

19 A Sure, yes.

20 Q And what were the nature of the  
21 conversations, telephone conversations?

22 A They wanted the bond business.

1 Q Do you know who Robert Brown is?

2 A No.

3 Q Mr. Mitchum, are you aware of where the  
4 idea to finance the radio system through a bond  
5 underwriting came from?

6 A No.

7 Q Where that originated?

8 A I'm not aware of that, other than the  
9 letter you showed me a while ago from Raney  
10 suggesting possible options.

11 Q I would like to direct your attention to  
12 the second page -- the third page of this document,  
13 27584. Under the title says "State Police  
14 Communications Act."

15 A Uh-huh.

16 Q There is a -- the minutes reflect -- I will  
17 read this. "A recommendation was made that a  
18 financial team be selected as soon as possible so  
19 they may be involved in negotiations with Motorola.  
20 After lengthy discussion between members of the  
21 commission, Mr. Ed Erxleben and Mr. Dudley Meadows,  
22 state purchasing represented several financial firms

1 concerning procedures to follow relating to the  
2 acquisition and financing of the communications  
3 equipment. The commission agreed to begin  
4 immediately the process of selecting the financial  
5 institution to handle the financing."

6 Do you recall that discussion taking place?

7 A Yes.

8 Q Do you recall the specific recommendations  
9 that were made by the financial firms with regard to  
10 procedures relating to the financing of the  
11 communications equipment?

12 A No.

13 Q Were the representatives from the financial  
14 firms the people that are listed on the first page of  
15 this, under representatives from Lasater & Company,  
16 E.F. Hutton & Company and T.J. Raney & Sons?

17 A What is your question?

18 Q Were those the people that are referenced  
19 in the portion I just read?

20 MR. PORTNOY: Is what you are asking --

21 MR. O'CALLAGHAN: The --

22 MR. PORTNOY: The companies that

1 participated in the discussion or discussions, if you  
2 know.

3 THE WITNESS: I don't know.

4 BY MR. O'CALLAGHAN:

5 Q Were there representatives from any other  
6 financial firms present other than those listed on  
7 the first page?

8 A Obviously not.

9 Q I'm asking if you remember.

10 A No, I don't.

11 Q If there are other people attending a  
12 meeting, would they have been listed on the first  
13 page of the minutes?

14 A Yes.

15 Q Was it normal practice for members of the  
16 general public attending State Police Commission  
17 meetings to participate in the discussions?

18 A No.

19 Q Do you recall how the representatives of  
20 the financial firms came to be involved in  
21 discussions with the committee or the commission?

22 A No, I don't recall.

1 Q Does that help refresh your recollection as  
2 to whether they were invited to attend?

3 A No.

4 Q Is that consistent with their participation  
5 and discussion?

6 A I don't know how they were invited to  
7 attend.

8 MR. PORTNOY: I think your testimony was  
9 you don't know whether they were invited to attend.

10 THE WITNESS: Or whether they were invited  
11 to attend, yes.

12 BY MR. O'CALLAGHAN:

13 Q Are you aware of any other instances where  
14 members of the public that were not part of the  
15 commission participated in discussions at the  
16 meetings?

17 A At this meeting?

18 Q Any meetings.

19 A I recall that our commission meetings were  
20 really not that formal. So, I think that it wouldn't  
21 have been unusual for a visitor to say something at a  
22 commission meeting.

1 Q Are you aware of any other instances where  
2 the members of the commission were involved in  
3 lengthy discussions with people who weren't part of  
4 the commission?

5 A Yes.

6 Q Do you have any specific recollection of  
7 that happening?

8 A Yes. Not related to the bond issue, but  
9 one of the things I tried to advocate as a member of  
10 the commission was physical fitness. I recall asking  
11 a physical fitness monitoring company from Phoenix or  
12 somewhere to come address the commission about the  
13 need to have troopers slim down. We had a very  
14 lengthy discussion about that.

15 Q In that instance, the physical fitness  
16 company was invited to address the commission,  
17 though?

18 A That's correct.

19 Q Do you know of any other times when members  
20 of the --

21 A That's the only one that comes to mind.

22 MR. PORTNOY: Can I ask one question?

---

1 MR. O'CALLAGHAN: Sure.

2 MR. PORTNOY: Was it common for members of  
3 the public to attend meetings at all?

4 THE WITNESS: Yes, yes, particularly where  
5 there were promotions involved. Family members would  
6 come to see their relatives promoted or whatever.

7 BY MR. O'CALLAGHAN:

8 Q With regard to the meeting on April 4,  
9 1985, was there a public notice put out that that  
10 meeting was going to occur?

11 A Yes.

12 Q Would that notice have listed all the  
13 business that was going to be conducted during that  
14 meeting?

15 A Supposed to do that.

16 Q Do you know when the first request for  
17 proposals went out for the underwriting of the  
18 communications system?

19 A Sometime after this meeting, but I can't  
20 give you a date.

21 Q At the page 27584, the last paragraph,  
22 "letter will be mailed on Monday, April 8, 1985 to



1 financial institutions in the state seeking  
2 proposals, with a cutoff date of two weeks from the  
3 date of letter for proposals to be received."

4 Does that help refresh your recollection?

5 A Yes.

6 Q Do you know if any letters were sent out  
7 before April 8, 1985?

8 A No.

9 Q Who would have sent those letters out?

10 A David Mosley.

11 MR. PORTNOY: Was your testimony that you  
12 know that Mr. Mosley sent out those letters, or you  
13 assumed that in the normal course of his duties he  
14 would do so?

15 THE WITNESS: Yes, that I assume that he  
16 would have done it.

17 BY MR. O'CALLAGHAN:

18 Q Was he a member of the committee?

19 A Yes.

20 Q Would anyone else on the committee have  
21 sent the letters out?

22 A Not to my knowledge.

1 Q I would like to -- this is a one-page  
2 document I would like you to review on state of  
3 Arkansas, Arkansas State Police letterhead, dated  
4 April 5, 1985, addressed to Mr. Michael J. Drake and  
5 signed by David Mosley.

6 (Witness examined the document.)

7 A Okay.

8 Q Have you ever seen this document before?

9 A I don't recall.

10 Q Did the members of the committee review  
11 letters that went out before they were sent out?

12 A No.

13 Q Does this help -- after reviewing this  
14 document, a letter dated April 5, a letter to  
15 Mr. Drake of Lasater & Company. It is DKS N 018227,  
16 the Bates number.

17 The first line reads "Dear Mr. Drake, you  
18 are requested to submit a proposal for financing the  
19 Arkansas State Police communications system."

20 Does this help refresh your recollection as  
21 to whether request for proposals went out before  
22 April 8th?

1 A Obviously this one did.

2 Q Is this a request for proposal?

3 A Yes.

4 MR. PORTNOY: I would like the record to  
5 reflect that April 8th was a Monday and April 5th was  
6 a Friday. It is not clear whether this letter was  
7 drafted on April 5th or mailed on April 5th, or  
8 whether there is in fact a discrepancy. I want the  
9 record to be clear on that.

10 BY MR. O'CALLAGHAN:

11 Q With regard to the request for proposals  
12 that were sent out, were they all sent out at the  
13 same time? Were they sent at different times? Do  
14 you know?

15 A I don't know.

16 Q I would like to direct your attention again  
17 back to the minutes of the April 4th committee  
18 meeting.

19 A Okay.

20 Q On Bates stamped page number 27585, the top  
21 of the page, it says "new business continued and  
22 State Police Communications Act. Chairman Simpson

1 appointed the following committee to review and  
2 evaluate proposals and to make preparations for the  
3 firms they select to make a formal presentation to  
4 the commission."

5 It lists Colonel T.L. Goodwin, Mr. David  
6 Mosley, Mr. Ed Erxleben, Mr. Dudley Meadows,  
7 Commissioner Johnny Mitchum and Commissioner Bill  
8 Simpson.

9 Then -- are those the members of the  
10 committee that you are familiar with?

11 A Yes.

12 Q I just had a question, because on the next  
13 page, I guess there was a break in the meeting,  
14 according to the minutes. Right after that that is  
15 reported at 11:35. It says "change in committee to  
16 review financial proposals for the communication  
17 system. Commissioner Simpson announced a change had  
18 been made in the committee. Major Tyler was added to  
19 the committee, also instead of only two members of  
20 the commission serving on the committee, the entire  
21 commission will serve. Commissioner Simpson  
22 requested that Colonel Goodwin write letters to

1 members of the committee informing them that they had  
2 been appointed and listing all members of the  
3 committee. It was agreed Commissioner Simpson will  
4 chair the committee and Colonel Goodwin will serve as  
5 co-chair."

6 Do you recall the members of the committee  
7 being changed during the course of that meeting?

8 A I really don't. I don't recall. But it  
9 says that it did.

10 Q Do you recall that Major Tyler wasn't  
11 initially a member of the committee?

12 A I don't recall that.

13 Q Would you be surprised if he wasn't  
14 included as a member of the committee?

15 A Thinking about it, yes, I would. He was  
16 the administrative officer who would have been in the  
17 line of communication on that, no pun intended,  
18 communication.

19 Q One more question I want to ask you with  
20 regard to the board minutes. On page 27584, with  
21 regard to the last paragraph, "a letter will be  
22 mailed out on Monday, April 8, 1985 to financial

1 institutions in state seeking proposal. The cutoff  
2 date of two weeks from date of letter proposals to be  
3 received." Was there a reason there was a two-week  
4 cutoff date placed on the return for proposals?

5 A I don't recall.

6 Q Were there any proposals that were sent in  
7 that were sent in after the cutoff date time?

8 A I don't recall.

9 Q Were there any proposals that the  
10 commission received that it didn't consider?

11 A That we did not consider?

12 Q Yes.

13 A I don't recall.

14 Q After the committee was put together, what  
15 were your responsibilities in connection with the  
16 committee for the State Police radio financing?

17 A As I recall, we were to receive the  
18 proposals and to review the analysis that our staff  
19 would perform, and then ultimately make a  
20 recommendation to the commission for selection of the  
21 bond underwriting firm.

22 Q What staff performed analysis of the

1 proposals?

2 A Maybe "analysis" is not a good word. I  
3 believe that Major Tyler and maybe Mr. Mosley  
4 compiled the proposals as they came in. It seems  
5 like I remember sort of a pro forma worksheet that  
6 they had prepared for our use in analyzing the  
7 proposals.

8 Q They collected the proposals and then gave  
9 them out to the committee members to analyze on their  
10 own?

11 A Correct.

12 Q And what was on the pro forma rating sheet  
13 that they gave you?

14 A As I recall, there was --

15 MR. PORTNOY: I don't think he testified  
16 there was a rating sheet. I think he said it was a  
17 worksheet, which might be different.

18 MR. O'CALLAGHAN: I'm sorry.

19 THE WITNESS: Yes. It was simply a matrix  
20 that had the interest rate, various attributes of the  
21 proposals.

22 BY MR. O'CALLAGHAN:

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1 Q Did any of the members of the committee  
2 have any background in finance?

3 A I would assume Win Rockefeller had a lot of  
4 financial background. Of course Simpson, being a  
5 businessman, while I didn't have intimate knowledge  
6 of his skills, I would assume he was a successful  
7 business person.

8 Q Did any other members have any formal  
9 training of the nature that you did, being a CPA?

10 A No.

11 Q Did any one member of the committee take a  
12 lead role in analyzing the proposals?

13 A I suppose probably me.

14 Q Was that a formal assignment or did that  
15 come naturally?

16 A I don't think so. It just came naturally.

17 Q Did the committee or the commission hire  
18 any outside advisers or counselors with regard to  
19 analyzing the proposals?

20 A The committee did not.

21 Q Did the commission?

22 A The commission did not.



1 Q Was anyone outside of the committee  
2 consulted?

3 A Yes.

4 Q And who was consulted?

5 A I individually contacted an enrolled  
6 actuary, a gentleman by the name of John Myers.

7 MR. PORTNOY: Could you spell that for the  
8 record, please.

9 THE WITNESS: I believe it is M-y-e-r-s.

10 BY MR. O'CALLAGHAN:

11 Q You said that he was an enrolled actuary?

12 A Yes.

13 Q What is an enrolled actuary?

14 A In country terms, he is a glorified number  
15 cruncher.

16 Q Is he an accountant?

17 A I don't think so.

18 Q Was Mr. Myers paid for his assistance?

19 A I understand he was.

20 Q Who paid him?

21 A I initially was going to pay him. I

22 understand the bond group who ultimately did the

---

1 financing paid his fee.

2 Q What group eventually did the financing?

3 A Raney, Hutton and Lasater.

4 Q When did they pay him his fee?

5 A I don't know.

6 Q Did they have any role in hiring him to do  
7 the work?

8 A No, absolutely not.

9 Q Did you know him, Mr. Myers, before you  
10 hired him?

11 A No.

12 Q How did you come to hire him?

13 A I called Mr. Hardin, who has been my  
14 attorney since the middle '70s.

15 MR. HARDIN: I might interject here, I  
16 don't want you to ask any questions about any  
17 communications that Johnny and I may have had. You  
18 can ask about Johnny's knowledge, but not about  
19 communications.

20 MR. O'CALLAGHAN: I don't want any  
21 attorney-client material. That's fine.

22 THE WITNESS: I told Mr. Hardin that I

1 had --

2 MR. HARDIN: I don't want you discussing  
3 any communications you had with me or me with you.

4 BY MR. O'CALLAGHAN:

5 Q With regard to Mr. Mitchum's discussion  
6 with you about the hiring of Mr. Myers --

7 MR. HARDIN: He has answered the question,  
8 but I don't want you asking any further questions  
9 regarding communications with his attorney or me with  
10 him.

11 MR. O'CALLAGHAN: Just for the record, so  
12 we are clear, is this an assertion of attorney-client  
13 privilege with regard to those conversations?

14 MR. HARDIN: That's the only thing I am  
15 aware of that the privilege would apply to.

16 MR. O'CALLAGHAN: You need to make the  
17 assertion of the privilege on the record so we are  
18 clear.

19 MR. HARDIN: The reason that we do not want  
20 you asking questions about communications between  
21 Mr. Mitchum and me is because I have been  
22 Mr. Mitchum's legal counsel during that entire time,

1 and that any communications between Mr. Mitchum and  
2 me would be considered privileged under the  
3 attorney-client privilege.

4 MR. O'CALLAGHAN: Were the communications  
5 you had with Mr. Mitchum with regard to hiring  
6 Mr. Myers, were those communications in connection  
7 with legal counsel that you were providing  
8 Mr. Mitchum as his attorney?

9 MR. HARDIN: I consider most of the  
10 communications I had with Mr. Mitchum privileged  
11 communications and in the course of my  
12 attorney-client privilege, yes.

13 MR. O'CALLAGHAN: But specifically those  
14 conversations?

15 MR. HARDIN: I --

16 MR. PORTNOY: Off the record for a moment.  
17 (Discussion off the record.)

18 MR. O'CALLAGHAN: Is Mr. Mitchum asserting  
19 the attorney-client privilege with regard to the  
20 conversations he had with you about hiring Mr. Myers  
21 back in 1985?

22 MR. HARDIN: Yes.

1 BY MR. O'CALLAGHAN:

2 Q How much was Mr. Myers paid for his  
3 services?

4 A I don't know.

5 Q What type of work did he provide in  
6 connection with doing analysis of proposals?

7 A I gave him copies of all of the proposals,  
8 and I asked him to perform an actuarial study to  
9 determine which of the proposals would be the  
10 cheapest cost for the people of Arkansas.

11 Q Did he perform any analysis?

12 A He did.

13 Q In what form was that analysis done?

14 A He would have called it a simple analysis.  
15 He simply reduced to present value the flow of funds  
16 under the duration of each of the proposals.

17 Q Did he give you a written or an oral  
18 report?

19 A Written.

20 Q Was that presented to you? Was it  
21 presented to the committee?

22 A It was presented to me first.

1 Q Did anyone else work on the analysis other  
2 than Mr. Myers?

3 A No, not to my knowledge.

4 Q When did he present you with the analysis?

5 A I don't recall.

6 Q Do you recall how soon after you received  
7 the analysis, whether it was a week or a month?

8 A A week or two.

9 Q Did you perform any independent analysis of  
10 the proposals?

11 A Yes.

12 Q During the same time period?

13 A Yes. Actually, before.

14 Q You had already performed an analysis  
15 before you turned to Mr. Myers?

16 A Yes.

17 Q Were you satisfied with the analysis you  
18 did?

19 A It confirmed what I had.

20 Q I'm asking about your analysis. When you  
21 initially performed your analysis, were you satisfied  
22 with the results of your analysis?

1 A I felt confident in my numbers.

2 Q Did you hire Mr. Myers in an effort to  
3 safety-check your analysis?

4 A In essence that's correct, corroborate what  
5 I had done.

6 MR. O'CALLAGHAN: Off the record.

7 (Recess.)

8 BY MR. O'CALLAGHAN:

9 Q I would like to show you a document Bates  
10 stamped DKSN 027364 through 27371.

11 (Witness examined the document.)

12 A Okay.

13 Q The document I just handed you, have you  
14 ever seen it before?

15 A Yes.

16 Q What is 27364 through 27371?

17 A Let me retract just a minute. I don't  
18 remember seeing that first sheet.

19 Q I will identify the whole document. The  
20 first sheet reads "State Police communications bid  
21 analysis." It has a breakdown of analysis sheets  
22 that are attached. The second page says "State

1 Police communication bid analysis," dated 10 May  
2 1985. It begins "present value study, number of  
3 bidder" and lists cost and some other headings. The  
4 following pages contain run sheets of various  
5 numbers, months, years, bond payments, net revenue  
6 and so forth.

7 What portion of this document have you seen  
8 before?

9 A I recall seeing all of the document after  
10 the first sheet. I don't believe this front sheet  
11 was part of Mr. Myers's analysis. I'm not sure where  
12 that came from.

13 Q With regard to the portion of the document  
14 that follows the cover sheet, what is contained in  
15 there?

16 A There is a summary of Mr. Myers's net  
17 present value computations, listing net present value  
18 cost of the issue; First Capital Corporation 18.073  
19 million; Raney, Hutton and Lasater 18.101 million.  
20 Stephens 19.709 million, and it looks like that was  
21 marked through and 18.598 or 998 million was  
22 substituted. Dabbs Sullivan 1, 19.997 million; and



1 19.216, Dabbs Sullivan 2.

2 Q Was this part of the analysis that  
3 Mr. Myers gave you?

4 A Yes.

5 Q Did you receive that in or around May 6, do  
6 you recall?

7 A I don't recall. It would have been around  
8 that time, yes.

9 Q Do you recall if you received it the same  
10 day the committee met to decide which proposal to  
11 accept?

12 A I don't recall that, no.

13 Q With regard to the run sheets that follow  
14 that, is this part of the analysis that Mr. Myers did  
15 for you?

16 A Yes.

17 Q The first portion is a list of First  
18 Capital Resources Corporation. It appears to run  
19 from page 27366 to 27368. Then page 27369 appears to  
20 be a run sheet for Raney, Hutton, Lasater, and that  
21 goes through 27371.

22 A Yes.

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1 Q I would like to show you another multipage  
2 document which goes from page 27168 through 27184.

3 A Okay.

4 Q I was going to ask you again the general  
5 question whether you have seen it before.

6 (Witness examined the document.)

7 A It looks like his present value analysis.

8 Q Including more sheets for the other firms  
9 that have put proposals in?

10 A Yes.

11 Q And then there -- the last page.

12 A Yes. That is the matrix that I remember  
13 the staff preparing.

14 Q Is that the one you referred to that  
15 Mr. Mosley gave out?

16 A Yes.

17 Q That you referenced earlier?

18 A Yes.

19 Q The sheet that appears here, 27184, it says  
20 "bid summary" and the left-hand column says "term"  
21 and "average monthly payments" and "total payments"  
22 and "net effective interest rate."

1           There are numbers for Dabbs Sullivan, it  
2 appears, but there aren't numbers for the other  
3 companies.

4           Did you have a bid summary that filled out  
5 numbers for all the companies?

6       A    I don't recall.

7       Q    Did you give out the bid summary sheet to  
8 Mr. Myers?

9       A    No. I only gave him the proposal.

10      Q    What was the conclusion of your analysis of  
11 the various proposals? Before I do that, do you  
12 recall the number of firms that submitted proposals  
13 to the committee?

14      A    I don't remember a specific number.  
15 Obviously there were five here.

16      Q    I might have something that might refresh  
17 your recollection so we can identify it, so we are  
18 clear on the record.

19      A    Okay.

20      Q    The document Bates stamped 27874, it is  
21 minutes of board meeting for April 24, 1985.

22           Halfway down through the minutes, it lists

---

1   a number of companies that said their proposals were  
2 received, from eight firms. Is that consistent with  
3 your recollection?

4       A    Yes.

5       Q    Do you know -- right above that it says  
6 "financing proposals were received until 9:00 a.m.  
7 on April 22, 1985." Are you aware of whether any  
8 proposals were received after 9:00 a.m.?

9       A    I'm not aware of that.

10      Q    Did you review all the proposals that were  
11 received by the committee?

12      A    Yes.

13      Q    Did every member of the committee review  
14 all the proposals?

15      A    Yes.

16      Q    Did the committee meet together to review  
17 proposals?

18      A    Yes.

19      Q    Was it also done individually?

20      A    Yes, I assume that each member did his own  
21 analysis.

22      Q    How many separate meetings occurred where

1 proposals --

2 A I don't know.

3 Q -- where proposals were discussed?

4 A I don't know.

5 Q Was there more than one?

6 A As I recall, yes.

7 Q What was the format of the meetings? Was

8 it at the State Police administration headquarters?

9 At another location?

10 A The only -- the meetings that I attended

11 were at the State Police headquarters in the

12 conference room.

13 Q Were these public meetings or were these

14 private committee meetings?

15 A Yes. In Arkansas, under Freedom of

16 Information, any time two commissioners are together,

17 it is covered and you have to give notice.

18 Q Did anyone else other than committee

19 members attend meetings where they were discussing

20 proposals?

21 A I don't recall that. I would assume that

22 at some point Motorola may have been present.

1 Q Were any of the firms that had submitted

2 proposals attended any of those meetings?

3 A I don't recall.

4 Q Of the initial eight proposals that were

5 received, was there a time later where a smaller

6 number of proposals were considered?

7 A Obviously that's the case.

8 Q I'm asking for your recollection.

9 A Yes.

10 Q How were they culled out from the group of

11 eight?

12 A I don't know. I don't recall.

13 Q Do you know in what form it was done? Was

14 it done in a meeting? Was one person responsible for

15 it?

16 A I don't know the answer to that. I know

17 that the only restricting factor that I can recall is

18 that we wanted Arkansas connections.

19 Q Just so I'm clear about how the committee

20 operates and what needs to be public and what

21 doesn't, the only reason I asked the question is, the

22 last full paragraph on the April 24th board meeting

1 minutes says "Mr. Erxleben suggested this meeting be  
2 a closed meeting as it will be a working committee  
3 meeting."

4 Is there a special provision for closed  
5 meetings or working committee meetings?

6 A I'm not aware of that.

7 Q Were you ever at a closed meeting of the  
8 committee?

9 A Not to my knowledge. I thought they were  
10 all open.

11 Q Were you at a meeting where the firms were  
12 whittled down to four firms who were competing for  
13 the underwriting contract for the police radio  
14 system?

15 A I don't recall.

16 Q I would like to -- let me take some of  
17 these documents out of your way.

18 A Sure.

19 Q Turning to document Bates stamped DKS  
20 027166 and 027167, this document has been stapled. I  
21 can represent to you that it wasn't stapled when we  
22 received it, even though the Bates stamps are in

1 succession.

2 (Witness examined the document.)

3 A I have read it.

4 Q The first page of the document is minutes  
5 of the meeting of the financial screening committee  
6 for the communication system, dated May 7, 1985.

7 Halfway down the page, there is a list of  
8 four underwriting groups or firms that are listed.  
9 Of the firms that are listed there; Dabbs Sullivan,  
10 First Capital Resources, and a joint proposal with  
11 T.J. Raney, E.F. Hutton & Company and Lasater, and  
12 Stephens Incorporated, were those the four finalists  
13 for the underwriting contract?

14 A Yes.

15 Q Down two paragraphs below that, it reads  
16 "however, the committee did express some  
17 reservations about the Raney, Hutton, Lasater group  
18 because of the recent publicity involving E.F. Hutton  
19 & Company. It was suggested that the company be  
20 required to explain the situation during their oral  
21 presentation."

22 Do you recall those discussions taking



1 place?

2 A Yes.

3 Q What is your recollection of those  
4 discussions?

5 A Nothing, other than what this press article  
6 states.

7 Q Did you recall how the subject came up  
8 during the meetings?

9 MR. PORTNOY: Can the record reflect what  
10 the press article is?

11 MR. O'CALLAGHAN: Sure, yes.

12 BY MR. O'CALLAGHAN:

13 Q I would like to ask you independently of  
14 looking at the article.

15 A Oh, I'm sorry.

16 Q There is a press article and the second  
17 page reads "board queries company's ties to E.F.  
18 Hutton."

19 MR. PORTNOY: Do we have a date and a  
20 source?

21 MR. O'CALLAGHAN: "Democratic capital  
22 bureau" is listed on the by-line.

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1 MR. HARDIN: It is Democrat capital  
2 bureau.

3 MR. PORTNOY: The Arkansas Democrat.

4 MR. O'CALLAGHAN: From May 8, 1985.

5 BY MR. O'CALLAGHAN:

6 Q My question was do you recall how that  
7 subject came up in the meeting.

8 A E.F. Hutton had been fined for something on  
9 a national scale, and I don't really recall what  
10 their violation was. But there was concern about  
11 that.

12 Q Do you remember who brought it up?

13 A I believe Win Rockefeller brought it up.

14 Q What comments did he make with regard to  
15 that?

16 A Just an expression of concern that they had  
17 been fined, and we needed to have full confidence in  
18 the firm if they were selected.

19 Q Did other members of the committee express  
20 concern, other than Mr. Rockefeller?

21 A I don't recall.

22 Q Did you express any concern?

1 A Yes.

2 Q What did you say about it?

3 A Basically echoed what Win said.

4 Q Anything in addition, other than having  
5 concerns?

6 A No.

7 Q Did anyone suggest that reconsideration  
8 should be given to whether the Hutton, Lasater, Raney  
9 group should be in the running for the bond  
10 underwriting contract?

11 A I don't recall.

12 Q No recollection of that?

13 A No.

14 MR. PORTNOY: You have no recollection --  
15 you don't remember if it occurred, or you have an  
16 affirmative recollection that it did not occur?

17 THE WITNESS: I don't recall if it  
18 occurred.

19 MR. PORTNOY: Thank you.

20 BY MR. O'CALLAGHAN:

21 Q Did any of the committee members at any  
22 point suggest that Raney, Hutton and Lasater should

1 be disqualified due to concerns related to Hutton's  
2 legal problems?

3 A I don't recall that specific language.

4 Q How about that general sentiment, that they  
5 should be taken out of consideration?

6 A I remember Commissioner Raff at a  
7 commission meeting suggesting that.

8 MR. PORTNOY: The record should be clear  
9 that this document appears to state that Commissioner  
10 Raff was not present at the financial screening  
11 committee meeting. So, that recollection presumably  
12 would have been from another time.

13 THE WITNESS: From a commission meeting, a  
14 subsequent commission meeting, yes.

15 BY MR. O'CALLAGHAN:

16 Q He wasn't on the screening committee?

17 A That's correct.

18 Q So he wouldn't have been at the meeting  
19 anyway?

20 A That's correct.

21 MR. PORTNOY: Off the record.

22 (Discussion off the record.)

1 BY MR. O'CALLAGHAN:

2 Q I asked you -- or I said that he wasn't --  
3 that Commissioner Raff --

4 A He wasn't in attendance at this meeting.

5 MR. PORTNOY: Which is different from not  
6 being eligible to attend or serving on the  
7 committee.

8 THE WITNESS: That's correct, that's  
9 correct.

10 BY MR. O'CALLAGHAN:

11 Q At what point did you feel satisfied that  
12 your analysis of the proposals was complete?

13 A Say that again.

14 Q At what point did you feel that your  
15 analysis of the proposals was completed?

16 MR. PORTNOY: Are you asking him personally  
17 or the commission?

18 MR. O'CALLAGHAN: His analysis.

19 MR. PORTNOY: I wanted it clarified. Your  
20 analysis individually.

21 THE WITNESS: I don't know really how to  
22 answer that. When I finished my present value

1 computation, I felt confident in the numbers. But  
2 due to my fiduciary responsibility to the public, I  
3 wanted to get independent corroboration.

4 BY MR. O'CALLAGHAN:

5 Q When had you concluded -- let me ask this  
6 question first. Which firm's proposal did you think  
7 was --

8 A Was the cheapest for the state?

9 Q Which firm's proposal did you finally  
10 decide that the committee should adopt?

11 A As you saw from the numbers, First Capital  
12 and Raney, Hutton and Lasater were neck and neck.  
13 When you considered that the Raney, Hutton and  
14 Lasater concept called for delayed payments, which  
15 allowed for more arbitrage to be credited against  
16 that present value cost, clearly that made them the  
17 best concept.

18 Q When did you come to that conclusion?

19 A I felt strongly that was the answer after  
20 my analysis, but I felt very confident after seeing  
21 Mr. Myers's analysis and after discussing the matter  
22 with him.

1 Q So, was the component of the Hutton, Raney,  
2 Lasater proposal that allowed for delayed payments  
3 the element that made the difference between that  
4 proposal and the other proposals?

5 A That was part of it. Under the Internal  
6 Revenue Code at that time, you could mitigate or  
7 defray the cost of a bond issue by debt service  
8 arbitrage. They made maximum use of that, and that's  
9 what made their proposal the better proposal.

10 Q Did you attend a commission meeting on May  
11 10, 1985?

12 A I don't know.

13 Q I would like to show you a document which  
14 bears a Bates stamp DKS N 027185, 027186, 027187.

15 A Okay.

16 (Witness examined the document.)

17 Q Looking at the first page of this document,  
18 have you seen the first page of this document before?

19 A Yes.

20 Q Where did you see that?

21 A At the commission meeting.

22 Q Did you see it -- there are some

1 handwritten notations that appear on there. Did you  
2 see it with the handwritten notations on it?

3 A No, no.

4 Q Do you recognize any of the handwriting on  
5 the document?

6 A No.

7 Q Looking at the second page, they both read  
8 "agenda, Arkansas State Police Commission meeting"  
9 and the first page has agenda items 1 through 7, and  
10 then a line with a list of proposals and 1, 2, 3, 4  
11 which is cut off a little bit on my copy. The page  
12 27186 has numbers 1, 2, 3, 4, 5. I am wondering if  
13 you recall whether you saw the first or the second  
14 page.

15 A I would have seen the second page.

16 Q Were you at the State Police Commission  
17 meeting where the four firms, Dabbs Sullivan,  
18 Stephens Inc., First Capital Resources and the group  
19 of T.J. Raney, E.F. Hutton and Lasater & Company,  
20 gave oral presentations?

21 A Yes.

22 Q Do you know how the order of the



1 presentation was determined?

2 A No.

3 Q Did you listen to all the proposals at that  
4 meeting, all the oral presentations?

5 A Yes.

6 Q Had you arrived at a decision by the time  
7 of that meeting of which firm you thought had the  
8 best proposal?

9 A Yes.

10 Q Was that the T.J. Raney, E.F. Hutton,  
11 Lasater & Company proposal?

12 A Yes.

13 Q The third page of this document, 27187,  
14 reads "Arkansas State Police communication system  
15 monthly payments. Anticipates an "A" rating, 11  
16 years revenue pledged driver's license fees."

17 Have you ever seen this document before?

18 A I don't recall.

19 MR. PORTNOY: Did the committee receive  
20 these documents stapled as a single document?

21 MR. O'CALLAGHAN: These aren't stapled.  
22 They are paper clipped.

1 MR. PORTNOY: They are sequential, so you  
2 are treating them as a single document?

3 MR. O'CALLAGHAN: As they are presented. I  
4 am not indicating these were originally together.

5 MR. PORTNOY: I just wanted to be clear on  
6 that.

7 MR. O'CALLAGHAN: Okay.

8 THE WITNESS: What was your question?

9 BY MR. O'CALLAGHAN:

10 Q The third page of the document, 27187,  
11 whether you have ever seen that before.

12 A I don't recall.

13 Q Did you see any spreadsheets of this nature  
14 while you were doing your analysis?

15 A I don't recall. Probably.

16 Q Were driver's license fees pledged as  
17 revenue for the bond underwriting for the police  
18 radio system?

19 A Yes.

20 Q How did that work, the best you can  
21 describe it?

22 A I don't know all of the inner workings of

1 state government, but I assume with the enabling  
2 legislation, they appropriated \$290,000 a month, or  
3 whatever the number was, to apply against this bond  
4 issue.

5 Q When you say they applied it against the  
6 bond issue, how is that money applied? What does it  
7 go toward?

8 A For debt service.

9 Q So it pays off interest on the bonds?

10 A Correct; interest and principal.

11 Q During the May 10th meeting, after the  
12 firms gave their oral presentations, was there any  
13 action taken by the committee with regard to the  
14 proposals?

15 A I don't recall.

16 Q Do you recall whether you made a  
17 recommendation with regard to any of the proposals,  
18 whether the committee should accept one or the other?

19 A I may have made a recommendation on behalf  
20 of the committee.

21 Q I have something which hopefully will  
22 refresh your recollection. It is a copy of the board

1 minutes, the commission meeting minutes, Arkansas  
2 State Police, May 10, 1985.

3 (Witness examined the document.)

4 MR. O'CALLAGHAN: Let's go off the record.

5 (Discussion off the record.)

6 (Whereupon, at 12:40 p.m., the deposition  
7 was recessed, to be reconvened at 1:30 p.m. this same  
8 day.)

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## AFTERNOON SESSION (1:35 p.m.)

Whereupon,

JOHNNY B. MITCHUM

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

## EXAMINATION (Continued)

BY MR. O'CALLAGHAN:

Q Before we went off the record for lunch, I had shown you a copy of the minutes of the Arkansas State Police Commission meeting for May 10, 1985.

Did you attend a meeting of the State Police Commission on May 10, 1985?

A Yes.

Q Was that the meeting where the oral proposals were given for the four financial firms competing for the Arkansas State Police radio system underwriting?

A Yes.

Q On the second page, after the presentation of proposals, underneath that heading, about two-thirds of the way down the page there is a paragraph which reads "Commissioner Johnny Mitchum

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had prepared a brief summary comparison of the four proposals and distributed copies to the commission."

Do you recall preparing a brief summary comparison of the proposals?

A I really don't recall preparing a summary. I think that I may have passed out a copy of the summary sheet from Myers.

Q The top sheet or all the numbers with all the run sheets?

A I don't recall.

Q You think you handed them something that he prepared?

A I think so.

Q The next sentence, "his conclusion was that they must accept the best concept or format rather than the cost outline and that Raney, Hutton, Lasater offered the best plan." Do you recall articulating that?

A Yes.

Q Could you expand on what exactly you said and what your thinking was.

A Okay. Under the Internal Revenue Code at

1 that time, you could invest debt service funds in  
2 taxable securities even though the bond coupons  
3 themselves were nontaxable. As a rule, taxable  
4 securities yield a higher yield than nontaxable  
5 securities.

6 So, the logic was that the higher the debt  
7 service reserve you could utilize, the more income  
8 you could generate from those invested funds, thereby  
9 reducing the net cost of the overall issue.

10 Q By making money on the difference between  
11 the return on the taxable over nontaxable?

12 A That's correct and investing -- buying in  
13 one market, if you will, and selling in another.  
14 That's simply what arbitrage is.

15 Q With regard to using the debt service funds  
16 for that purpose, could you explain exactly what that  
17 debt service fund is?

18 A It is basically a reserve account that  
19 would be used first and foremost in the event of  
20 default, the bondholders would be protected at least  
21 to the extent of those funds, and then at the end of  
22 the bond issue, that fund would usually be used to

1 make the last payment or two under the issue.

2 Q And you explained that the Lasater, Hutton,  
3 Raney proposal had a better debt service fund feature  
4 to their proposal?

5 A Correct.

6 Q Did any of the proposals have debt service  
7 funds?

8 A Yes. It would be required under federal  
9 bond law to have a debt service reserve.

10 Q What was the distinction between the Raney,  
11 Hutton, Lasater debt service fund and the other  
12 funds?

13 A Theirs was bigger. They were proposing a  
14 larger fund. Basically the larger the bond issue,  
15 the larger their debt service reserve.

16 Q The how would they achieve creating a  
17 greater debt service reserve or fund?

18 A I suppose that you can only take -- you  
19 could have taken that only so far under the code.  
20 They were just basically more bold with their  
21 approach.

22 Q Was that tied in to the payment schedules



1 associated with the offering?

2 A Yes. It is all interrelated.

3 Q Do you recall whether there were any  
4 complaints raised about the way the Raney, Hutton,  
5 Lasater deal was constructed?

6 A There were complaints after the fact by the  
7 unsuccessful proposers.

8 Q Do you recall, were there any complaints  
9 made during that meeting on May 10th?

10 A I don't recall.

11 Q After the portion I just read to you, there  
12 is a paragraph which reads "some of the firms at this  
13 time requested permission to revise the proposals as  
14 they felt there had been some misunderstanding of the  
15 Act."

16 Do you recall that happening?

17 A Yes.

18 Q Could you describe what happened with  
19 regard to that?

20 A Well, I think that -- I don't remember the  
21 entire discussion, but basically when you send out  
22 RFPs and you get them back, you analyze them and you

---

1 pick the best deal; and you don't reopen the thing.  
2 Out of a sense of fairness, you don't keep it open  
3 for people to keep coming at you until they are  
4 successful.

5 Q It says here that some of the firms  
6 requested permission to revise the proposals as they  
7 felt there had been some misunderstanding of the  
8 Act. What was the misunderstanding that existed?

9 A I don't know. I mean, I don't recall why  
10 they felt they misunderstood. It was there for all  
11 of them to read and research.

12 Q Were there any complaints made that the  
13 Hutton, Raney, Lasater proposal didn't comply with  
14 the terms of the Act, the way that the financing  
15 should be structured?

16 A No.

17 Q Do you know who Neil Hertenstein is?

18 A The name is vaguely familiar, vaguely  
19 familiar.

20 Q Did you attend any of the meetings with  
21 regard to the financing contracts that took place in  
22 the Arkansas legislative council?

1 A The hearing to review the --  
2 Q The contract, or whether or not to approve  
3 the contract that the commission entered into.  
4 A Yes, yes, I did.  
5 Q Did you attend a meeting which took place a  
6 week after the May 10th meeting?  
7 A Was that before the legislative council?  
8 Q Before the legislative council, yes.  
9 A Yes, I did.  
10 Q Do you recall whether any concerns were  
11 raised or complaints about the way the Raney, Hutton,  
12 Lasater proposal was structured with regard to  
13 payment schedules?  
14 A No, I don't recall that.  
15 Q I would like to show you a document Bates  
16 stamped DKS N 027211 through 027222. It is minutes of  
17 the meeting of the Arkansas legislative council from  
18 Friday, May 17, 1985.  
19 I will direct your attention to a specific  
20 portion of it. Just so we are clear, you attended  
21 this meeting; is that right?  
22 A Yes.

---

1 Q I would like to direct your attention to  
2 the third page of the document, which is Bates  
3 stamped 27213.  
4 A Yes.  
5 Q I would like to direct your attention to  
6 the beginning of the last paragraph.  
7 A Yes.  
8 Q It begins "Chairman Benham." If you could  
9 read --  
10 MR. PORTNOY: What page is this?  
11 MR. HARDIN: The third page.  
12 BY MR. O'CALLAGHAN:  
13 Q If you could read starting there and  
14 continue through the paragraph that begins on the  
15 next page, through the end of the second paragraph.  
16 A What did you say?  
17 Q I'm directing your attention to the  
18 paragraph that begins on the bottom of page 3, and  
19 read through the rest of that paragraph as it  
20 continues to the next page, and then the paragraph  
21 following that.  
22 A Okay.

1 (Witness examined the document.)

2 Q After reading that portion of the minutes,  
3 does that refresh your recollection as to who Neil  
4 Hertenstein is?

5 A Yes. He sent flowers to my daughter when  
6 she had a car wreck.

7 Q Do you recall him making comments at the  
8 meeting?

9 A Yes.

10 Q With regard to the statement that  
11 "Mr. Hertenstein stated that his company was  
12 proposing that the state make payments on a monthly  
13 basis, which incidentally was stipulated in the  
14 legislation passed at the last session of the  
15 Arkansas general assembly, Raney, Hutton, Lasater  
16 proposal proposed annual and semiannual payments."  
17 Do you remember him making those comments?

18 A Vaguely.

19 Q Is that statement accurate?

20 A Yes.

21 Q Is there a problem with the proposed  
22 payment schedule that the Raney, Hutton, Lasater

1 proposal had with regard to the legislation?

2 MR. PORTNOY: Let me clarify something.  
3 Are you saying that it is accurate as in the  
4 statement is true, or it is accurate as in the  
5 statement accurately reflects what Mr. Hertenstein  
6 said?

7 THE WITNESS: I think that it is accurate  
8 as to what he said. Would you restate the question.

9 BY MR. O'CALLAGHAN:

10 Q Sure. The question is whether the  
11 statement, the characterizations made in the  
12 statement are accurate.

13 A That the Raney, Hutton and Lasater --

14 MR. PORTNOY: That Mr. Hertenstein said?

15 MR. O'CALLAGHAN: Yes.

16 THE WITNESS: Their proposal called for  
17 annual and semiannual payments, the Raney, Hutton,  
18 Lasater proposal. The other proposals called for  
19 monthly payments. Is that your question?

20 BY MR. O'CALLAGHAN:

21 Q Yes.

22 A Yes.

1 Q There is another portion that said that the  
2 legislation passed in the Arkansas general assembly  
3 called for monthly payments. Is that your  
4 recollection?

5 A I don't recall. I haven't read that in I  
6 don't know how long.

7 Q Do you recall whether that ever came up as  
8 a problem with regard to the payment schedule?

9 A Apparently it did. That's what it says.

10 Q Other than this?

11 A No.

12 Q Did the Raney, Hutton, Lasater proposal --  
13 after the proposals were made, and Raney, Hutton and  
14 Lasater was hired, were the payments made on a  
15 semiannual and an annual basis or made on a monthly  
16 basis?

17 A I have no idea.

18 Q I would like to show you a document which  
19 bears Bates stamps DKS N 018193 through DKS N 018199.  
20 The document I just handed to you reads "Act date  
21 1/7/1985 for the bill. It is for 'an act authorizing  
22 the leasing of communications equipment for the

1 department of the Arkansas State Police providing for  
2 the payment and security of the cost of equipment and  
3 for other purposes'."

4 The text of the Act follows. The last  
5 page, signature approved by Bill Clinton, and the  
6 date is 4/4/85.

7 (Witness examined the document.)

8 A Yes.

9 Q Have you seen a copy of this bill before?

10 A Yes.

11 Q When did you see it?

12 A In various times. I can't tell you exactly  
13 when.

14 Q How did it come to your attention?

15 A It was probably presented to the commission  
16 for review.

17 Q Is this the Act authorizing the financing  
18 of the police radio network that we have been talking  
19 about?

20 A Correct.

21 Q Are you familiar with this -- are you  
22 pretty familiar with this bill?



1 A It has been a long time since I have read  
2 it.

3 Q During the time you were working on getting  
4 the financing for the deal done?

5 A Yes.

6 Q I would like to direct your attention to  
7 page 5, which is Bates 18197.

8 A Yes.

9 Q The last paragraph reads "payments to cover  
10 the cost under the lease agreement shall be paid from  
11 the lease fund on a monthly basis."

12 Could you tell me what your understanding  
13 is as to what that refers to?

14 A I believe that would indicate that the  
15 payments on the debt would be made on a monthly  
16 basis.

17 Q Is that consistent with Mr. Hertenstein's  
18 comments?

19 A Yes.

20 Q In the minutes we just read?

21 A Yes.

22 Q Did anyone from the legislative council

1 seek any guidance or advice from the commission with  
2 regard to whether or not the Raney, Hutton, Lasater  
3 proposal didn't comport to the requirements of the  
4 legislation?

5 A The legislative council didn't ask me  
6 anything, and I can't speak for anyone else.

7 Q Do you have any knowledge of whether --

8 A No.

9 Q Was that something -- was the payment  
10 schedule an issue that was discussed by the  
11 committee?

12 A I don't recall. On matters such as that,  
13 we simply referred to the state purchasing  
14 department, and we assumed that they would steer us  
15 correctly on that, Ed Erxleben and the other fellow.

16 Q Do you know what the other person's name  
17 was? Is he in the minutes?

18 A Yes. I can't remember.

19 Q Did you have any contact with Michael  
20 Gaines in the Governor's office after the Raney,  
21 Hutton, Lasater group's proposal was chosen?

22 A I never had any contact with Michael Gaines

1 other than at the commission meetings.

2 Q How about Betsey Wright? Have you ever had  
3 any contact with her?

4 A No.

5 Q Did the Governor's office seek any guidance  
6 from the committee about the details of the bond  
7 underwriting after the contract was already awarded?

8 A Not to my knowledge.

9 Q Did the financing contract that was entered  
10 into with the State Police and the Raney, Hutton,  
11 Lasater group, did that have to be approved by the  
12 state legislature?

13 A The legislation itself I believe called for  
14 review and counsel, or advice and counsel, and not  
15 advice and consent. So, therefore, it did not  
16 require.

17 Q The need for formal passage; is that right?

18 A That's correct.

19 Q Did the council vote on whether or not they  
20 approved of the contract?

21 A They did, and I think it was a split vote,  
22 so we went away without a mandate, if you will.

1 Q Did the committee take any steps to  
2 convince members of the legislature that they should  
3 vote in favor of the contract?

4 A No.

5 MR. PORTNOY: I want to be clear. You mean  
6 the police commission?

7 MR. O'CALLAGHAN: Yes.

8 MR. PORTNOY: I thought you said  
9 committee. We have been throwing around so many  
10 commissions, committees and councils, I want to be  
11 sure.

12 THE WITNESS: We made our presentation and  
13 reported our findings and what we wanted to do. And  
14 they voted on that, and it was split.

15 BY MR. O'CALLAGHAN:

16 Q Was that during the May 17th meeting?

17 A I don't recall whether it was at that  
18 meeting. I guess it was, yes.

19 Q So, what was your reaction after the  
20 contract wasn't initially approved by the  
21 legislature?

22 A I don't know that I really had one. We

1 would have liked to have had unanimous support of  
2 what we had concluded. But I guess beyond that, I  
3 didn't have any feelings.

4 Q Would you say you put a lot of work into  
5 analyzing proposals and working on getting the  
6 contract done?

7 A Yes.

8 Q Was it your belief that the contract would  
9 have gone through without the approval of the  
10 legislature?

11 MR. PORTNOY: I think the testimony was the  
12 approval of the legislature was not required.

13 BY MR. O'CALLAGHAN:

14 Q I'm asking you whether you still believe it  
15 would be entered into and followed through with.

16 A I am confused.

17 Q You said earlier that they just needed --

18 A Advice and counsel.

19 Q Was it your understanding the contract  
20 would still go through if the legislature did not  
21 approve the contract?

22 A Well, at that point --

1 MR. PORTNOY: At what point? You mean  
2 before the legislature acted or voted? Afterwards?  
3 I'm kind of confused.

4 BY MR. O'CALLAGHAN:

5 Q Between the time of the first vote where it  
6 wasn't approved and it was later approved, is that  
7 right, by the legislative council?

8 A I don't recall.

9 Q If initially the legislative council didn't  
10 approve -- initially they didn't; is that right?

11 A Yes. I see what you are saying. I believe  
12 the commission would have stayed with its position.  
13 A majority of the commission would have stayed with  
14 that position, because we felt like it was the  
15 cheapest deal for the state.

16 Q If the legislature didn't approve of it  
17 with the advice and counsel, if they didn't give a  
18 positive vote --

19 A I think we would have went ahead with the  
20 one we felt was cheapest for the state.

21 Q Would that have required an additional  
22 vote?

1 A Of the commission?  
2 Q Yes.  
3 A Yes. In fact, we did subsequently vote.  
4 Q When did that take place?  
5 A I can't recall. But the final -- we voted  
6 after the legislative council, I think.  
7 Q That vote occurred after the --  
8 A I know it occurred after the first  
9 meeting. I would assume there was a second meeting  
10 of the council. I can't recall.  
11 Q Do you recall whether it was after the deal  
12 had been approved, or in between the time?  
13 A I don't recall. Sorry.  
14 Q I would like to show you a document Bates  
15 stamped DKS N 027850 through DKS N 027873.  
16 I'm going to direct your attention to some  
17 specific portions of it and ask you generally if you  
18 recognize it.  
19 A Okay.  
20 (Witness examined the document.)  
21 BY MR. O'CALLAGHAN:  
22 Q Have you seen this document before?

---

1 A I don't recall.  
2 Q Referring to the first page of the  
3 document, which reads "presentation to the State  
4 Police Commission of the state of Arkansas as  
5 prepared by T.J. Raney & Sons, Inc., E.F. Hutton and  
6 Lasater & Company.  
7 A Yes.  
8 Q And then the second page is the first  
9 portion of a cover letter on E.F. Hutton letterhead  
10 dated April 22. It is addressed to Mr. David  
11 Mosley.  
12 After my directing your attention to that  
13 portion --  
14 A Yes, I recognize it now as their proposal.  
15 Q From T.J. Raney, Hutton and Lasater?  
16 A Correct.  
17 Q I would like to direct your attention to  
18 the second page, 27851.  
19 A Okay.  
20 Q The third paragraph there reads, halfway  
21 through, "based upon these assumptions, subject to  
22 additional facts which are learned or developed and



1 based upon current market conditions, the financing  
2 we propose provides for principal and interest  
3 payments of approximately 3.17 million per year and  
4 effective cost of borrowing of 4.4 percent per  
5 year."

6 Do you recall that was the cost of  
7 borrowing proposed by the Raney, Hutton, Lasater  
8 group?

9 A Yes.

10 Q Was the effective cost of borrowing an  
11 important aspect of the proposal?

12 A Not really, because of the discount premium  
13 relationship which makes the effective amount  
14 different.

15 Q Can you explain that?

16 A I'm a little rusty, but I think 4.4 percent  
17 would have been the coupon rate. If bonds are issued  
18 at a premium, then a 4.4 percent rate on the face  
19 would be an effective rate of less than that and a  
20 discount would make the effective rate more than  
21 that.

22 Do I have it backwards?

---

1 MR. PORTNOY: Let's go off the record.  
2 (Discussion off the record.)

3 THE WITNESS: Premium increases rate.  
4 Discount decreases the rate.

5 BY MR. O'CALLAGHAN:

6 Q Did the effective cost of borrowing vary in  
7 the different proposals?

8 A Yes.

9 Q And if you can identify this, what caused  
10 the difference in the different effective costs of  
11 borrowing quoted in the different proposals?

12 A The debt arbitrage fund was the primary  
13 factor.

14 Q Was the Hutton, Lasater, Raney proposed  
15 effects of cost of borrowing lower than the other  
16 proposals?

17 A I don't recall. I assume it was.

18 Q Did you have any involvement in the  
19 execution of the underwriting contract for the State  
20 Police and Raney, Hutton, Lasater?

21 A No.

22 Q Are you aware of what effective cost of

1 borrowing they were able to offer at the time of the  
2 offering?

3 A No.

4 Q Have you ever heard what it was?

5 A I have heard, but I don't recall.

6 Q Do you remember whether it was more or less  
7 than 4.4 percent?

8 A I don't recall. I do remember hearing the  
9 State Police say that the department was very pleased  
10 because market conditions became very favorable.

11 Q Did you ever hear reports that the Raney,  
12 Hutton, Lasater group was quoting rates that were  
13 lower than what they actually thought they were  
14 capable of delivering?

15 A No.

16 Q I think I have one more question on that  
17 document. Page 27856, please.

18 A Yes.

19 Q I think that is page 3 of the actual  
20 proposal. Down that page, there is a number 5 which  
21 reads "underwriters discount is 2.5 percent of the  
22 issue size." What does that refer to?

1 A Basically that is the underwriter's fee for  
2 putting the thing together.

3 Q Did those vary between the different  
4 proposals?

5 A I don't recall.

6 Q If the underwriter's fee is a higher  
7 percentage, who incurs that cost? Would the State  
8 Police incur the cost? Would the bondholders?

9 A It would figure into the effective rate.

10 Q The rate we just discussed?

11 A Yes. It would be a factor in determining  
12 the net present value cost of the overall package.

13 Q Is there a direct relationship between the  
14 underwriter's discount and the rate?

15 A Yes.

16 Q Was the amount of the rate proposed by the  
17 different groups -- let me strike that.

18 Were the firms that were competing for the  
19 underwriting contract, were they provided with copies  
20 of proposals of the other firms that were competing  
21 for the contracts?

22 A I'm sure they were.

1 Q Was that done on a uniform basis, or were  
2 some firms given proposals and some not?

3 A I don't know the answer to that.

4 MR. PORTNOY: Could you clarify when you  
5 mean, because I gather all the firms turned in their  
6 initial proposals at the same time.

7 MR. O'CALLAGHAN: Prior to May 10, which  
8 would have been the oral presentations and when the  
9 commission made their decision.

10 MR. PORTNOY: By that, there were only four  
11 firms remaining at that point?

12 MR. O'CALLAGHAN: Yes.

13 MR. PORTNOY: We are not talking about the  
14 eight firms receiving the proposals from each other?

15 MR. O'CALLAGHAN: The four firms is fine.

16 THE WITNESS: If they wanted them, they  
17 could have gotten them.

18 BY MR. O'CALLAGHAN:

19 Q How about prior to -- strike that.

20 Do you recall what the basis was for the  
21 opposition to the contract from those members who  
22 voted against it in the legislature?

1 A Not really.

2 Q Do you recall whether it was based upon  
3 concerns about the lawsuits or suits filed against  
4 E.F. Hutton?

5 A I'm sure that is part of it.

6 Q Was that one of them?

7 A Yes.

8 Q Did the commission and the committee  
9 conduct any due diligence with regard to the  
10 underwriting firms that were making proposals?

11 A I assume that state purchasing did that.

12 Q That would have been --

13 A That would have been their job to have done  
14 that.

15 Q Were you provided with due diligence  
16 summaries or files from them?

17 A I don't recall.

18 Q Do you know if anyone reviewed disciplinary  
19 histories of the firms that were submitting  
20 proposals?

21 A I don't recall.

22 Q Was there any review done of the net

1 capital levels of the firms that provided proposals?

2 A I don't recall. I would certainly think  
3 there would have been.

4 Q Would that have been done by state  
5 purchasing or by the committee?

6 A By state purchasing.

7 MR. HARDIN: Did you say net capital  
8 requirements?

9 MR. O'CALLAGHAN: I think net capital  
10 levels, I said. If I said requirements, I meant  
11 levels. I apologize if I misspoke.

12 BY MR. O'CALLAGHAN:

13 Q Did anyone in the Governor's office meet  
14 with any of the state legislators in an effort to  
15 convince them to approve the contract, the  
16 underwriting contract for the State Police?

17 A I have no knowledge of that.

18 Q Have you ever heard that?

19 A No.

20 MR. O'CALLAGHAN: Read back my question,  
21 please.

22 (The reporter read the record as requested.)

---

1 BY MR. O'CALLAGHAN:

2 Q Including in the Governor's office, that  
3 question includes the Governor. Do you know if he  
4 did?

5 A I read in the paper that he did, but I have  
6 no personal knowledge that he did.

7 Q Are you aware whether anyone who was on the  
8 commission at the time had knowledge of a meeting  
9 with the Governor and members of the legislature on  
10 this issue?

11 A Say that again.

12 Q Are you aware if anyone who was on the  
13 commission at that time had knowledge of a meeting  
14 with the Governor and the legislature on this issue?

15 A No.

16 MR. PORTNOY: He testified that he wasn't  
17 aware that any meetings occurred. It would be  
18 difficult for him to be aware that someone else had a  
19 meeting.

20 MR. O'CALLAGHAN: He said he read it in the  
21 paper.

22 MR. PORTNOY: You are not speaking about



1 contemporaneous knowledge; you are speaking about  
2 whether he now has any knowledge?

3 MR. O'CALLAGHAN: Yes, at any time.

4 BY MR. O'CALLAGHAN:

5 Q Did the committee have any oversight over  
6 the underwriting of the bonds?

7 A No.

8 Q Did they have any involvement in  
9 determining how the debt service fund would be  
10 arbitrated?

11 A No.

12 Q Do you know who conducted that?

13 A No.

14 Q Are you familiar with anyone by the name of  
15 Dan Lasater?

16 A Yes.

17 Q How are you familiar with Dan Lasater?

18 A If you live in Arkansas, you have heard of  
19 Dan Lasater.

20 Q Have you ever had any personal contact with  
21 him?

22 A I have met him.

1 Q When did you meet him?

2 A I don't recall when I met him first.

3 Q Have you met him more than once?

4 A Probably twice or three times. I don't  
5 know.

6 Q Did you know him during the time period  
7 1984 through 1985?

8 A No.

9 Q So you met him after that?

10 A Yes.

11 Q Did he have any meetings with anyone at the  
12 police committee commission --

13 A Did Dan Lasater?

14 Q Yes.

15 A Not to my knowledge.

16 Q Do you know or have you ever heard whether  
17 anyone at Lasater & Company attempted to provide the  
18 Governor or anyone in the Governor's office with  
19 money or compensation in connection with bond  
20 underwritings?

21 A No.

22 Q Are you aware of whether anyone has ever

1 offered cash to a member of the Arkansas State Police  
2 Commission in connection with the police radio bond  
3 underwriting?

4 A No.

5 Q During the period 1984 through 1985, did it  
6 ever come to your attention that Dan Lasater was  
7 under investigation for any criminal activity?

8 MR. PORTNOY: I'm going to object to that  
9 question. If you want to ask the witness whether he  
10 had any basis for having doubts about the retention  
11 or the use of the Lasater firm, that's fine. But our  
12 understanding is that it is outside the scope of the  
13 Resolution to talk about this kind of generalized  
14 issue.

15 MR. O'CALLAGHAN: There is no understanding  
16 to that effect at all. It is completely within the  
17 scope of the Resolution, the propriety of granting  
18 the bond underwriting firm to Lasater & Company. I  
19 have stated that on the record before.

20 MR. PORTNOY: Let's go off the record.  
21 (Discussion off the record.)

22 MR. O'CALLAGHAN: In responding to an

1 objection made by Mr. Portnoy -- and Mr. Lance Cole  
2 from the Minority has just joined us -- it is the  
3 Majority's position with regard to the question I  
4 just asked Mr. Mitchum about his knowledge of  
5 Mr. Lasater -- his knowledge about whether there is  
6 any criminal investigation of Mr. Lasater 1984  
7 through 1985, it is the Majority's position that any  
8 knowledge that goes to those facts is relevant with  
9 respect to whether or not it was appropriate for the  
10 State Police Commission to be engaged in underwriting  
11 contracts with Lasater & Company and Mr. Lasater and  
12 with respect to whether or not he was under criminal  
13 investigation or had engaged in criminal activity  
14 during the time of that contract.

15 MR. COLE: Mr. O'Callaghan, you were not  
16 working for the committee at the time that the  
17 Resolution that created the committee was adopted by  
18 the Senate and prepared by the staff.

19 I think that probably the appropriate thing  
20 to do here is to ask Mr. Giuffra, the committee chief  
21 counsel, to come and join us on this issue.

22 I think he will recall that when the Senate

1 passed this resolution and in the preparation of the  
2 Resolution, there was extensive discussion about the  
3 scope of inquiry into matters relating to  
4 Mr. Lasater, and the language of the Resolution is  
5 very clear as to the bond underwriting contracts  
6 between ADFA and Lasater, and I don't think that the  
7 rationale that you have articulated, where there is  
8 no basis in the record, which I understand from  
9 Mr. Portnoy to be the case, that there is any  
10 evidence that there is a relationship between the  
11 question that you have asked and the actual award of  
12 the underwriting contracts, and your question clearly  
13 is outside the scope of the Resolution.

14 I think we should have Mr. Giuffra join us,  
15 since he is the chief attorney for the Majority who  
16 was involved in the Resolution.

17 MR. O'CALLAGHAN: Certainly.

18 (Recess.)

19 MR. O'CALLAGHAN: Let's go back on the  
20 record.

21 MR. COLE: I think the pending objection  
22 has to do with the question that Mr. O'Callaghan put

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1 to the witness concerning the witness's knowledge of  
2 criminal investigations relating to Mr. Lasater.

3 After consulting with the Majority counsel,  
4 including Mr. Giuffra, the chief counsel of the  
5 committee, and discussing the purposes and  
6 legislative intent behind Senate Resolution 120, we  
7 have determined that rather than prolong the  
8 proceedings unnecessarily, that we will not object to  
9 asking this witness what he knows about pending  
10 criminal investigations because of this witness's  
11 status as a state law enforcement official and the  
12 possibility that he might have had access to  
13 confidential information concerning those  
14 investigations.

15 We do reserve our rights, however, with  
16 regard to other witnesses, and the withdrawal of our  
17 objection relates solely to this witness because of  
18 his special status as a state law enforcement  
19 official at the time in question, which was before  
20 the offering of the bonds that are the subject of  
21 this deposition.

22 MR. O'CALLAGHAN: Thank you, Mr. Cole.

1 BY MR. O'CALLAGHAN:

2 Q Do you remember what the question was  
3 before we went off the record? I can restate it.

4 A Please restate it.

5 MR. COLE: Let's have the reporter read it  
6 back.

7 (The reporter read the record as requested.)

8 MR. COLE: Before you answer, sir, I would  
9 just note that the agreement that was reached among  
10 counsel while we were off the record would limit that  
11 question to the date of the offering of these bonds,  
12 which was May 1985.

13 MR. PORTNOY: The approval of the offering  
14 of the bonds, the approval of the bonds.

15 MR. COLE: The question goes to your  
16 knowledge at that time or before the bonds were  
17 offered. Is that clear?

18 THE WITNESS: Yes, that's clear.

19 MR. COLE: Thank you. So, you should go  
20 ahead and answer the question.

21 THE WITNESS: The answer is no.

22 BY MR. O'CALLAGHAN:

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1 Q Did anyone else on the State Police  
2 Commission have knowledge of any pending criminal  
3 investigations regarding Mr. Lasater?

4 A Not to my knowledge.

5 Q Did anyone in the Governor's office?

6 MR. COLE: I think, Mr. O'Callaghan, what  
7 you are doing is contrary to our agreement. We  
8 agreed with respect to this witness. We did not  
9 agree to any general inquiry as to the state of  
10 knowledge within the Arkansas state government.

11 There is no reason to believe this witness  
12 has any other, other than his own knowledge of his  
13 own agency. So I would object to further questions  
14 along those lines.

15 MR. O'CALLAGHAN: I think it is relevant  
16 because the Governor's office is part of the state  
17 government that necessarily would have some input on  
18 whether or not contracts should be awarded. The  
19 Governor appointed the commissioners of the police  
20 commission.

21 MR. COLE: I think it is clear if this  
22 witness had no knowledge himself before 1985 of this



1 matter, of any investigation concerning Mr. Lasater  
2 at all, it is subsumed within that that he had no  
3 knowledge of what others knew about that. Am I  
4 correct in that, Mr. Mitchum?

5 THE WITNESS: That's correct.

6 MR. COLE: Basically you had no knowledge  
7 of any kind prior to May of 1985.

8 THE WITNESS: That's correct.

9 MR. COLE: So I think any further  
10 questioning is unnecessary and I would say very  
11 contrary to the agreement we just reached off the  
12 record.

13 MR. O'CALLAGHAN: May I ask his knowledge,  
14 whether he subsequently learned that people had  
15 knowledge of any pending criminal investigations  
16 involving Mr. Lasater, not just his knowledge at the  
17 time of whether anyone had knowledge of it?

18 MR. COLE: Did you subsequently learn,  
19 subsequent to May 1985, that anyone else in state  
20 government, other than the obvious, which would be  
21 the people conducting the investigation, had  
22 knowledge of this criminal investigation?

1 THE WITNESS: Subsequent to all this bond  
2 business?

3 MR. COLE: In other words -- let's be  
4 clear. The question goes to your learning after May  
5 1985 that people knew before May 1985 about this  
6 investigation.

7 THE WITNESS: No, I don't have any  
8 knowledge.

9 MR. COLE: I think that is really more than  
10 fair.

11 MR. O'CALLAGHAN: That covers it. I am  
12 comfortable with that. That's fine.

13 BY MR. O'CALLAGHAN:

14 Q Again, during the period 1984 through '85,  
15 did you have any knowledge that Dan Lasater provided  
16 a job to Roger Clinton?

17 A No.

18 Q Did you have any knowledge that he provided  
19 an \$8000 loan to him?

20 A No.

21 Q Did anyone on the State Police Commission  
22 have knowledge --

1 A I have no idea.

2 Q I have to finish the question.

3 A I'm sorry.

4 Q Did anyone else on the State Police  
5 Commission have knowledge that Mr. Lasater had  
6 provided Roger Clinton with a job?

7 A Not to my knowledge.

8 Q Did anyone on the commission have knowledge  
9 that Mr. Lasater provided Roger Clinton with an \$8000  
10 loan?

11 A Not to my knowledge.

12 Q Are you aware -- do you have any knowledge  
13 of the nature of Governor Clinton's relationship with  
14 Dan Lasater during the period 1984 through '85?

15 A No.

16 MR. PORTNOY: Assuming there to have been  
17 one.

18 BY MR. O'CALLAGHAN:

19 Q With regard to any funds that were raised  
20 in connection with the bond offering, both through  
21 the issuance of bonds and the use of driver's license  
22 renewal fees, were any of those funds invested in

1 securities accounts at Lasater & Company?

2 A I have no idea.

3 Q Do you know whether any of those funds were  
4 invested in security accounts of any kind?

5 A I have no knowledge to that effect.

6 Q With regard to the debt service fund, were  
7 those funds -- you said those funds were used to  
8 invest in taxable securities; is that correct?

9 A That was my understanding.

10 Q Do you know if that actually happened?

11 A No.

12 MR. PORTNOY: I take that answer to mean  
13 you don't know, not that it didn't occur?

14 BY MR. O'CALLAGHAN:

15 Q You don't have any knowledge that it  
16 happened; is that right?

17 A That's correct.

18 MR. PORTNOY: You have no knowledge either  
19 way?

20 THE WITNESS: That's correct.

21 BY MR. O'CALLAGHAN:

22 Q Could the offering have been successful if

1 that hadn't been done?

2 A I would assume so. I understand that the  
3 state is very happy with the results of the offering.

4 Q Was the investment in taxable securities --

5 A A major consideration, yes.

6 Q In order to invest those funds, would those  
7 have to have been placed through a brokerage firm, a  
8 securities firm?

9 A I don't know the answer to that.

10 Q Did anyone on the State Police Commission  
11 have any securities account at Lasater & Company?

12 A I have no idea.

13 Q And that includes you; did you have any  
14 accounts at Lasater & Company?

15 A No.

16 Q Do you have any knowledge of any campaign  
17 contributions made by members of Lasater & Company to  
18 Governor Clinton's gubernatorial or inaugural  
19 campaigns?

20 A Only what I read in the paper.

21 Q Other than that?

22 A That's it.

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1 Q Were any of the funds connected to the  
2 State Police radio bond underwriting held in any  
3 accounts at Madison Guaranty?

4 A I have no idea.

5 Q Who would have knowledge of where moneys  
6 were deposited in connection with the offering?

7 A I would assume that Mr. Mosley would have  
8 that knowledge, and perhaps the state treasurer.

9 Q Would that be the same with regard to  
10 moneys invested in securities accounts?

11 A Yes.

12 MR. O'CALLAGHAN: Let's go off the record  
13 for a second.

14 (Discussion off the record.)

15 BY MR. O'CALLAGHAN:

16 Q In or around February of 1985, were you  
17 aware of any newspaper accounts regarding testimony  
18 given in the trial of Sam Anderson that Dan Lasater  
19 was involved in illegal activity?

20 A I don't recall.

21 MR. PORTNOY: Now I will just state for the  
22 record that this question was discussed off the

1 record between Majority and Minority counsel, and we  
2 agreed again that because of the witness's particular  
3 and unique position as an official of the police  
4 commission, the Minority would not object to his  
5 being asked that specific question. But we do  
6 reserve our rights in the future to object to similar  
7 questioning.

8 BY MR. O'CALLAGHAN:

9 Q Other than -- I asked you about whether you  
10 had knowledge about criminal investigations pending  
11 with regard to Mr. Lasater. During the period 1984  
12 to 1985, did you have any personal knowledge of any  
13 illegal activity he was engaged in?

14 A No.

15 Q Let me restate that. That made it sound --  
16 the question was were you aware that he was involved  
17 in any illegal activity.

18 A No.

19 Q During 1984 to 1985, how much contact did  
20 you have with Tommy Goodwin?

21 A At least once a month at a commission  
22 meeting and intermittently.

1 Q Were you friends?

2 A Yes.

3 Q Did you see him outside of commission  
4 meetings?

5 A On occasion, to have lunch or something  
6 like that.

7 Q Was the commission kept abreast of the  
8 status of pending investigations during that time  
9 period?

10 A That was not in our purview, if you will.  
11 We were not in enforcement per se.

12 Q Were you ever kept abreast of any  
13 investigations?

14 A No.

15 Q Was it Colonel Goodwin? Is that his rank?

16 A Yes.

17 Q Did Colonel Goodwin ever relate to you  
18 details of investigations that he was involved in?

19 A He might have made comments at times about  
20 various investigations. Those would have been  
21 primarily related to personnel matters within the  
22 department, which was our primary charge.



1 Q During 1984 through 1985, did Colonel  
2 Goodwin bring to your attention any investigations  
3 that had any relation to the bond underwriting  
4 contracts?

5 A No.

6 Q Or contract.

7 A No.

8 MR. HARDIN: What bond underwriting  
9 contract?

10 MR. O'CALLAGHAN: The police radio bond  
11 underwriting contract.

12 THE WITNESS: No.

13 BY MR. O'CALLAGHAN:

14 Q During 1985, did Colonel Goodwin make any  
15 inquiries as to whether there were any investigations  
16 pending with regard to anyone involved with the  
17 police radio bond underwritings?

18 A Say that again.

19 Q In 1985, did Colonel Goodwin make any  
20 inquiries as to whether there were any investigations  
21 being conducted that involved people involved in the  
22 state --

1 A Inquiries to whom?

2 Q To law enforcement agencies.

3 A He didn't make any to me. Beyond that I  
4 don't know.

5 Q Are you aware of any interviews that were  
6 conducted by the State Police of Mr. Lasater during  
7 1985?

8 A No.

9 Q Was anyone else in the commission aware of  
10 any interviews conducted by the State Police of  
11 Mr. Lasater?

12 A I don't know.

13 Q I just have a couple more general questions  
14 about the State Police underwriting for the radio  
15 contract.

16 Had the Arkansas State Police Commission  
17 ever issued bonds previous to the bond offering --

18 A Not to my knowledge.

19 Q -- for the State Police radio.

20 Was there consideration given to having  
21 another agency do the issuing of this bond offering?

22 A Not to my knowledge.

1 Q Are you familiar with the Arkansas  
2 Development Finance Authority?

3 A Yes.

4 Q Were they consulted in connection with the  
5 bond offering?

6 A Not to my knowledge.

7 Q Was the fact that the State Police were  
8 financing this radio system through a bond  
9 underwriting, was that considered to be a unique bond  
10 financing project at the time?

11 MR. PORTNOY: By whom?

12 BY MR. O'CALLAGHAN:

13 Q Let me rephrase. In general -- there have  
14 been comments made that the police radio bond  
15 underwriting was a unique bond underwriting because  
16 it was the first bond underwriting in the state of  
17 Arkansas that wasn't a brick and mortar project.

18 Are you aware if statements have been made  
19 to that effect?

20 A Yes.

21 Q Would you agree with that?

22 A Yes.

1 Q Was the Governor's office provided with  
2 copies of the various financing proposals that were  
3 submitted to the State Police Commission?

4 A I have no idea.

5 MR. O'CALLAGHAN: I have no further  
6 questions at this time. Thank you.

7 EXAMINATION

8 BY MR. PORTNOY:

9 Q Good afternoon.

10 A Good afternoon.

11 Q I have just a few areas to follow up on.  
12 Would you describe in general terms what  
13 the role or duties of the police commission were.

14 A The State Police Commission is generally a  
15 policy-making body, most specifically in the area of  
16 personnel and personnel administration in that all  
17 promotions, demotions, firings, transfers, things of  
18 that nature have to be submitted to the State Police  
19 Commission for final approval.

20 Q And that was the bulk of your  
21 responsibility?

22 A Yes.

1 Q Were there any other areas of  
2 responsibility?

3 A Advice and counsel to the director, review  
4 of budgets, things of that nature.

5 Q You didn't directly supervise any police  
6 operations, did you?

7 A No.

8 Q That was done by the director?

9 A Correct.

10 Q Did the commission appoint the director?

11 A No.

12 Q So, in the course of business, you  
13 generally would have no reason to know the nature or  
14 progress of police investigations?

15 A Correct.

16 Q I believe you testified that the one  
17 exception to that might be the intersection of a  
18 personnel matter and an investigation?

19 A Correct.

20 Q Either somebody was to be hired in order to  
21 staff an investigation or somebody who might be  
22 considered to be fired there was necessity to have an

1 investigation, that kind of issue?

2 A That's correct.

3 Q You said that the commission reviewed the  
4 police department's budgets?

5 A Yes.

6 Q Did you draft the budgets?

7 A No.

8 Q That was done in-house?

9 A Correct.

10 Q Mr. Mitchum, you testified earlier that  
11 when you joined the police commission in 1982, the  
12 inadequacies of the communications system were  
13 already a subject of discussion?

14 A Yes.

15 Q Do you recall when the old radio system was  
16 acquired?

17 A Vacuum tube technology, 30 years before.

18 Q Would you describe it as having been  
19 antiquated? I believe you did.

20 A Yes.

21 Q You also testified that you understood that  
22 some troopers had been killed in part because of the

1 failure of communication system?

2 A Yes.

3 Q Could you elaborate on that, please.

4 A There was a trooper in I believe the  
5 Texarkana, Arkansas area, and I can't remember his  
6 name right now. He picked up a speeding motorist,  
7 and he picked up the speeding motorist in what was  
8 commonly referred to as a dead spot, dead because his  
9 mobile radio unit could not contact his base  
10 operation. In the process of this stop, he was shot  
11 and killed.

12 Q And this was in part because he couldn't  
13 access his --

14 A He couldn't call in for backup or even  
15 notify his home base that he was making the stop.

16 Q So, the need for a new communication system  
17 was acute?

18 A Yes.

19 Q I would like to show you a document Bates  
20 stamped DKS N 017956 through 62, which is captioned  
21 "Arkansas State Police Executive Summary, Priority  
22 of Needs."

1 I would ask you to direct your attention to  
2 the first page. Does that appear to be as described,  
3 a summary of the State Police priority of needs?

4 A Yes.

5 Q Have you ever seen this document before?

6 A I don't recall having seen this specific  
7 document. But I know that in my mind's eye, those  
8 items listed 1 through 3 were always talked about.

9 Q And for the record, what are numbers 1  
10 through 3?

11 A Salary increases for the employees, new  
12 communications system and vehicle replacement.

13 Q Am I correct in noting that a new  
14 communication system is identified as the second  
15 highest priority for the State Police?

16 A Yes.

17 Q Does that comport with your understanding  
18 from the time?

19 A Yes.

20 Q Would it be fair to say that the police  
21 director and also the members of the commission  
22 communicated that need to others in the state



1 government?

2 A If we didn't, we would be remiss in our  
3 jobs.

4 Q So, it would be fair to say that you did  
5 communicate that need?

6 A To anyone who would listen.

7 Q Frequently and loudly?

8 A Yes.

9 Q Turning to the period when you were  
10 considering various underwriters for the issuance of  
11 the State Police bonds, I would just like the record  
12 to be clear. Other than the underwriters themselves,  
13 did anyone try to influence you to select a  
14 particular underwriter?

15 A No.

16 Q Did anyone try to influence you not to  
17 select a particular underwriter?

18 A No.

19 Q What would you have done if someone made  
20 such an effort?

21 A I was in the CPA business for 13 years, and  
22 ethics was a cornerstone of my existence. I would

1 have to weigh the ethical considerations on such an  
2 approach. If I deemed it inappropriate, then I would  
3 have to respond accordingly.

4 Q Would it be fair to say that an attempt to  
5 influence you to vote a particular way would not have  
6 been likely to have achieved the result sought?

7 A I think that is a fair assumption.

8 MR. HARDIN: I think he has testified,  
9 though, that some people during the process were  
10 making their sales pitches.

11 THE WITNESS: He said other than the  
12 underwriters.

13 BY MR. PORTNOY:

14 Q One would expect the underwriters to try  
15 and sell their business.

16 A They are the salespeople.

17 Q You testified earlier that representatives  
18 of the Governor's office attended commission meetings  
19 and also meetings of the subcommittee that looked  
20 into the police radio financing. I believe you also  
21 testified "they were just there, primarily just  
22 listened." Is that an accurate statement of your

1 recollection of their participation?

2 A Yes. I never recall anyone from the  
3 Governor's office taking an active role in that  
4 process.

5 Q They didn't try to direct the commission to  
6 select a particular underwriter?

7 A No.

8 Q Or not to select a particular underwriter?

9 A Never.

10 Q Or to structure the deal in any way?

11 A No.

12 Q They just observed?

13 A Correct.

14 Q Did I also understand you to testify that  
15 outside the context of these meetings, you never had  
16 any discussion with anyone from the Governor's office  
17 with respect to the police radio underwriting?

18 A That's correct.

19 Q You did, however, get frequent calls from  
20 the underwriters themselves?

21 A Yes.

22 Q From all of them?

1 A Yes.

2 Q Including Lasater & Company?

3 A Yes.

4 Q Including Raney?

5 A Yes.

6 Q And Hutton as well?

7 A Yes.

8 Q In the course of those discussions with the  
9 representatives of Lasater & Company and Raney and  
10 E.F. Hutton, did you ever have any reason to believe  
11 that somehow a fix was in and that they expected to  
12 get the contract?

13 A No.

14 Q Would you say that their approach to you  
15 was similar to that of all the other underwriters;  
16 they were trying to convince you to pick them?

17 A Yes.

18 Q Did you ever have any reason to believe in  
19 the course of your entire participation in the  
20 awarding of the bond contract that somehow the fix  
21 was in and that a particular company or consortium  
22 was supposed to be selected?

1 A No.

2 Q Would you describe the process as having  
3 been open?

4 A Yes.

5 Q Inclusive?

6 A Yes.

7 Q Fair?

8 A Yes.

9 Q You also testified earlier that you made as  
10 a board the decision to require participation by  
11 firms that were doing business in Arkansas?

12 A Yes.

13 Q Could you explain why you did that?

14 A I think it is always good to do business at  
15 home, if you can get a competitive price at home.

16 Q Would it be fair to say that since you were  
17 paying fees, it seemed appropriate to put the money  
18 in Arkansas?

19 A Exactly.

20 Q That decision wasn't related to an effort  
21 to direct the business to any particular underwriter,  
22 was it?

1 A Absolutely not, not in my mind's eye.

2 Q Are you aware of anybody else who might  
3 have viewed the Arkansas requirement as part of an  
4 effort to direct the business to a particular  
5 underwriter?

6 A No.

7 Q Do you have any reason to believe that that  
8 requirement was anything other than a straightforward  
9 attempt by the state government to benefit the state?

10 A No.

11 Q Do you recall whose idea it was to require  
12 that the underwriters have a connection to Arkansas?

13 A No.

14 Q Do you recall whether the Governor's office  
15 expressed any views on that?

16 A No.

17 Q You testified that you split into what I  
18 have been calling the subcommittee to review the  
19 financing proposals and that staff members received  
20 the proposals; is that correct?

21 A Correct.

22 Q And they compiled them somehow?

- 1 A Yes.
- 2 Q They attached a worksheet of some kind?
- 3 A Yes.
- 4 Q Did they rank the proposals?
- 5 A No.
- 6 Q That was left to the members of the
- 7 commission?
- 8 A Yes.
- 9 Q In the process of reviewing proposals, you
- 10 retained an actuary, Mr. Myers?
- 11 A Yes.
- 12 Q And you intended initially to pay Mr. Myers
- 13 yourself?
- 14 A Yes.
- 15 Q Did you discuss your intention to retain
- 16 Mr. Myers with anyone before doing so, outside of
- 17 counsel?
- 18 A No.
- 19 Q No one else on the commission?
- 20 A No.
- 21 Q So, this was a decision you made
- 22 independently, simply to assure yourself that you

- 1 were doing the best thing for the people of the
- 2 state?
- 3 A That's correct.
- 4 Q Do you have any reason to believe that
- 5 Mr. Myers had any kind of connection to any of the
- 6 underwriting applicants?
- 7 A Absolutely not.
- 8 Q Did you ask him that?
- 9 A No.
- 10 Q You just know that he didn't?
- 11 A Yes.
- 12 Q You indicated earlier that your
- 13 instructions to him were to determine which proposal
- 14 would cost the least, in effect?
- 15 A That's correct.
- 16 Q Did you give him any other instructions?
- 17 A No. I might add, I did not tell him what I
- 18 had concluded either.
- 19 Q Had you reached your conclusion -- let me
- 20 go back a step. You testified earlier that you had
- 21 concluded that the Raney, Hutton, Lasater proposal
- 22 was the least expensive?



1 A Correct.

2 Q Had you reached that conclusion before you  
3 retained Mr. Myers?

4 A Yes.

5 Q So, you retained him to confirm or  
6 corroborate your view?

7 A That's correct.

8 Q And in your estimation, did he corroborate  
9 your view?

10 A Yes.

11 MR. PORTNOY: Off the record.

12 (Discussion off the record.)

13 BY MR. PORTNOY:

14 Q Mr. Mitchum, let me show you a document  
15 numbered DKSJ 001406 through 22. I have a copy for  
16 your counsel as well.

17 Is this the document that Mr. Myers  
18 prepared?

19 (Witness examined the document.)

20 A Yes.

21 Q I asked you to identify it again, simply  
22 because the copy that I have has a different Bates

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1 stamp number than the copy Mr. O'Callaghan has and I  
2 want to be clear we are talking about the same  
3 document.

4 You indicated --

5 MR. HARDIN: Just as an observation off the  
6 record.

7 (Discussion off the record.)

8 MR. PORTNOY: I would just state for the  
9 record that counsel has observed that this copy of  
10 Mr. Myers's work product appears to have a  
11 computer-generated date on the top of some of the  
12 pages of May 9, 1985. The copy that Mr. O'Callaghan  
13 referenced before had a cover sheet with a date of  
14 May 10th, which may suggest that these documents were  
15 prepared on May 9th and then transmitted on May  
16 10th.

17 MR. HARDIN: Or possibly iterations.

18 MR. O'CALLAGHAN: The copy I showed you had  
19 the May 9th date on the top, following the cover  
20 page, one of the two copies I showed you.

21 THE WITNESS: Okay.

22 BY MR. PORTNOY:

1 Q Sir, I would ask you to turn to the page  
2 Bates stamped 1420.

3 A Okay.

4 Q At the top of the page, just before the  
5 chart begins, there is an entry "present value net  
6 payments."

7 A Yes.

8 Q And that is \$18,101,700?

9 A Correct.

10 Q What does that figure represent?

11 A That is the net present value cost of all  
12 of the revenues associated with this flow of funds  
13 deducted from the net present value of all of the  
14 expenditures of this flow of funds using a discount  
15 rate in this case of 10 percent.

16 Q For the laymen among us, would it be fair  
17 to say that that's how much this proposal by Raney,  
18 Hutton --

19 A Would cost in 1985 dollars.

20 Q Would cost the state of Arkansas in 1985  
21 dollars?

22 A That's correct.

1 Q I would ask you to turn to the page 1420.

2 A Yes.

3 Q Would I be correct in saying this reflects  
4 the analysis of the First Capital Resources proposal?

5 A Yes.

6 Q Looking at the present value net payments,  
7 it states that the present value net payments would  
8 be 18,073,030.

9 A Correct, why we did not select that one.

10 Q That's precisely the question, sir. There  
11 appears to be a \$28,000 difference in price or cost  
12 to the state of Arkansas. I understood you to  
13 testify earlier that it was your view that you had  
14 selected the proposal that would be least expensive  
15 to the state of Arkansas. I was wondering if you  
16 could clarify for the record why the Raney, Hutton,  
17 Lasater proposal in your view was less expensive.

18 A These numbers do not reflect the benefit  
19 that would result from deferring the first payment  
20 for 13 months. In essence, the interest that would  
21 be earned on the pot of money for that period of time  
22 would mitigate the Raney, Hutton and Lasater amount

1 to an amount less than \$18,101,000, substantially  
2 less than.

3 Q It would be fair to say that although this  
4 document prepared by Mr. Myers is accurate, there is  
5 a respect in which it is incomplete?

6 A That's correct.

7 Q So, in your judgment, the missing factor in  
8 this analysis resulted in a different ranking than  
9 would appear on the face of this document?

10 A Yes, of course.

11 Q Did you discuss your view of the analysis  
12 with Mr. Myers, by any chance?

13 A You mean recently?

14 Q No. At the time.

15 A Yes.

16 Q Did he agree with you that his analysis  
17 failed to account for this additional factor?

18 A Yes.

19 Q Did he --

20 A As a matter of fact, his notes are  
21 reflected in there.

22 Q Did he agree with you that after

1 considering this additional factor, the RHL proposal  
2 would be less expensive for the people of Arkansas?

3 A Yes.

4 MR. O'CALLAGHAN: Was the 13-month deferral  
5 of payments that Mr. Portnoy has just referred to as  
6 like the missing fact from your analysis, was that  
7 the aspect of your proposal that was objected to by  
8 Mr. Hertenstein?

9 THE WITNESS: Correct.

10 MR. O'CALLAGHAN: Thanks.

11 BY MR. PORTNOY:

12 Q I would like to show you a document that  
13 has been identified as the May 10, 1985 minutes from  
14 the commission meeting.

15 A Yes.

16 Q I draw your attention to the second page,  
17 which is Bates stamped DKS N 027190 and in particular  
18 to the third paragraph from the bottom which states  
19 that you moved that the RHL consortium be approved to  
20 handle the financing for the communications system.  
21 Does that comport with your recollection, sir?

22 A Yes.

1 Q It was your motion to approve RHL?

2 A Yes.

3 Q Did anybody in any way try to influence you  
4 to make that motion?

5 A No, other than sales puffing by the various  
6 underwriters, of course.

7 Q So, this was completely a function of what  
8 you believed to be the proper discharge of your  
9 responsibilities as the police commissioner?

10 A Yes.

11 Q Without any improper influence of any kind?

12 A Correct.

13 Q The paragraph prior to the one I just  
14 showed you states that some of the applicants for the  
15 underwriting contract sought to revise their proposal  
16 as they felt they had misunderstood the nature of the  
17 proposal in some fashion or the nature of the RFP in  
18 some fashion. That again comports with your  
19 recollection?

20 A Yes.

21 Q You testified that there was nothing  
22 particularly special about the refusal or the board's

1 decision not to reopen the proposal?

2 A No.

3 Q You viewed this as essentially sour grapes  
4 from the losing bidders?

5 A Yes.

6 Q Do you know if there were any legal  
7 limitations on your ability to reopen the bidding?

8 A I would assume that the staff and state  
9 purchasing department personnel would advise us if we  
10 had any requirements or restrictions pursuant to  
11 that.

12 Q Did they advise you either way? Did they  
13 tell you that you had the option to reopen it or did  
14 not have the option to reopen it?

15 A No, they didn't say anything.

16 Q They left it for the commission to decide  
17 for itself?

18 A Yes.

19 Q They did not try to influence your vote on  
20 that matter in any way?

21 A No.

22 Q I believe you testified earlier that



1 Mr. Erxleben was involved in the review of the  
2 proposals. Could you describe his role for us.

3 A I believe his title was director of state  
4 purchasing, which means that his agency was charged  
5 with making sure that all laws applicable to  
6 purchasing items for the state of Arkansas are  
7 adhered to.

8 Q And specifically with respect to the police  
9 radio underwriting contract, did he advise the  
10 commission as to procedures for putting out a  
11 contract for bid?

12 A Yes.

13 Q Did he express views as to which contract  
14 or proposal ought to be accepted?

15 A No.

16 Q He did not?

17 A No.

18 Q He did not participate in any way in the  
19 substance of the decisionmaking?

20 A Correct.

21 Q That was left entirely to the commission?

22 A Correct.

1 Q You also indicated Mr. Mosley assisted in  
2 compiling information and reviewing proposals?

3 A Correct.

4 Q Mr. Mosley was the fiscal director or the  
5 chief fiscal officer for the police department?

6 A Correct.

7 Q Did Mr. Mosley participate in the selection  
8 of the RHL consortium?

9 A No.

10 Q Did he participate in any way in the  
11 decision as to which underwriter to award the  
12 contract to?

13 A No.

14 Q Once again, that was left completely to the  
15 commission?

16 A Correct.

17 Q Did any staff member of any entity, state  
18 entity, participate in the process of deciding which  
19 underwriter would receive a contract?

20 A Only in information gathering, but not in  
21 the decisionmaking itself.

22 Q You indicated earlier that you were trying

1 to find the best deal for the people of Arkansas.

2 A Correct.

3 Q If there had been other factors that you  
4 considered important in addition to price, did the  
5 commission have the flexibility to choose an  
6 underwriter that wouldn't have been the least  
7 expensive?

8 A I would have hoped -- yes, I think so.

9 Q So, it was within your discretion, you  
10 believe, to choose someone who wasn't the least  
11 expensive?

12 A Yes. I think ability to perform would have  
13 and could have played a big role.

14 MR. PORTNOY: That's all I have, sir.  
15 Thank you very much.

16 EXAMINATION

17 BY MR. O'CALLAGHAN:

18 Q I have a couple of quick follow-up  
19 questions. I will try to be short and sweet.

20 Has the State Police been involved in a  
21 bond underwriting since 1985, since the bond  
22 underwriting of the police radio network?

1 A I don't know.

2 Q The reason I ask is I think you said before  
3 they hadn't been previously and then they did an  
4 offering for the radio.

5 A I don't know the answer to that. I don't  
6 think so, but I'm not sure.

7 Q Did anyone on the commission or in the  
8 police department have any experience with bond  
9 underwritings, issuing them -- bond offerings?

10 A I don't know the answer to that.

11 Q Mr. Portnoy outlined how you said that  
12 there was an acute need for a new police radio  
13 system. Do you know or have you ever learned that  
14 Lasater & Company was told by anyone in the  
15 Governor's office that the radio system would be  
16 funded by a bond offering and that that bond offering  
17 would be underwritten by Lasater & Company?

18 A I have no knowledge of anything like that.

19 MR. O'CALLAGHAN: If I have asked this  
20 question, Counsel, let me know. I want to make sure  
21 I have covered it. I'm not sure whether I did or  
22 not.

1 MR. HARDIN: Redundancy is okay.

2 MR. O'CALLAGHAN: Mr. Portnoy might  
3 disagree with you.

4 BY MR. O'CALLAGHAN:

5 Q Between 1984 and 1985, did you have any  
6 personal communication with Governor Clinton?

7 A No.

8 Q Did you have any dealings with anyone by  
9 the name of Sam Bratton?

10 A No.

11 Q Do you know who he is?

12 A Yes.

13 Q How do you know who Sam Bratton is?

14 A He is a public figure in Arkansas. I  
15 believe he is currently on the Public Service  
16 Commission.

17 Q Were you aware that Mr. Bratton had  
18 meetings with different underwriters during 1984 and  
19 1985 with regard to the State Police radio bond  
20 issuance?

21 A No.

22 Q You told me earlier that you were a member

1 of the Capital Club; you may or may not have been  
2 through '84 and '85.

3 A Uh-huh.

4 Q I asked you if Mr. Drake was a member and  
5 you said you weren't certain; is that right?

6 A Correct.

7 Q Was Mr. Lasater a member of the Capital  
8 Club?

9 A I have no idea.

10 MR. HARDIN: Off the record.

11 (Discussion off the record.)

12 MR. O'CALLAGHAN: Why don't we describe it  
13 on the record.

14 MR. PORTNOY: It is up to you.

15 BY MR. O'CALLAGHAN:

16 Q Can you describe what the Capital Club is?

17 A The Capital Club is simply a place to have  
18 lunch and dinner. Dues are \$25 a month, and they  
19 have several thousand members from throughout the  
20 state.

21 Q How often did you go there during 1984 and  
22 '85?

1 A I don't recall.

2 Q Do you recall in 1985, in the spring of  
3 1985 how often you went?

4 A No.

5 Q Did you go there for lunch?

6 A Yes.

7 Q Did you go there for dinner?

8 A Occasionally.

9 Q Did you ever see Mr. Drake at the Capital  
10 Club?

11 A No.

12 Q Did you ever see Mr. Lasater at the Capital  
13 Club?

14 A No.

15 Q Mr. Portnoy showed you a portion of the  
16 board minutes from May 10, 1985, where there was a  
17 discussion about a request for permission to revise  
18 proposals by the other underwriters who weren't  
19 chosen.

20 A Right.

21 Q Were any of the commission members in favor  
22 of granting the request of the underwriters to hand

1 in revised proposals?

2 A I don't recall.

3 Q Was there any discussion whether it would  
4 be to the benefit of the state to let the firms  
5 revise their proposals in light of the fact of the  
6 representation that they had misunderstood the --  
7 there was a misunderstanding of the Act?

8 A I don't recall. May I correct something on  
9 the record?

10 Q Absolutely.

11 A When a bond is issued at a premium, the  
12 effective rate is lowered. When a bond is issued at  
13 a discount, the effective rate is increased.

14 Q Thank you for that correction.

15 MR. O'CALLAGHAN: I have no further  
16 questions at this time.

17 EXAMINATION

18 BY MR. PORTNOY:

19 Q I have one last question for you, sir. You  
20 indicated earlier that it was your understanding that  
21 the bond issue had been successful; is that correct?

22 A Yes.



1 Q The bonds were all issued in a timely  
2 manner?

3 A Yes.

4 Q The state received the funds it needed?

5 A Yes.

6 Q The communication system was purchased?

7 A Yes.

8 Q And installed?

9 A Yes.

10 Q The bonds haven't been defaulted on in any  
11 fashion, have they?

12 A No.

13 Q To your knowledge, has there been any  
14 problem whatsoever with the issuance and payment of  
15 the bonds?

16 A No.

17 Q Do you still consider the people of  
18 Arkansas got a good deal?

19 A Absolutely.

20 MR. PORTNOY: That's all I have. Thank  
21 you.

22 MR. O'CALLAGHAN: I have one more question

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1 to follow up on that.

2 EXAMINATION

3 BY MR. O'CALLAGHAN:

4 Q My question, was the bond underwriting  
5 profitable for the underwriters that participated?

6 A You would have to ask them. I don't know.

7 MR. O'CALLAGHAN: That's all the questions  
8 I have.

9 Would counsel like to ask any clarifying  
10 questions or the witness make any clarifying  
11 statements?

12 MR. HARDIN: No, other than the fact that I  
13 do understand if Mr. Mitchum is going to be called  
14 back in any manner where he is going to be asked  
15 questions regarding his deposition, that a reasonable  
16 time frame in advance of that, at a time which is  
17 reasonably in advance of that you will provide both  
18 Mr. Mitchum and me a copy of the transcript, which I  
19 do understand will be without exhibits that were  
20 introduced and provided for inspection today; is that  
21 correct?

22 MR. O'CALLAGHAN: That's correct.

1           MR. HARDIN: What do you consider a  
2 reasonable time in advance?

3           MR. PORTNOY: The committee's practice  
4 heretofore has been approximately four days in  
5 advance that you would receive a copy. But that is  
6 in addition to your prior review for errata  
7 purposes.

8           MR. HARDIN: Off the record.

9           (Discussion off the record.)

10          (Whereupon, at 4:20 p.m., the deposition  
11 was concluded.)

12

13

14

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JOHNNY B. MITCHUM

15

16

17

18

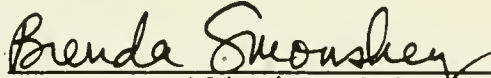
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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996





**DEPOSITION OF PATRICIA SOLIS  
IN RE: S. RES. 120**

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**FRIDAY, FEBRUARY 9, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of PATRICIA SOLIS, called for examination pursuant to notice of deposition, at 10:40 a.m. in Room 640-A of the Hart Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.  
Majority Associate Special Counsel  
NEAL E. KRAVITZ, Esq.  
Minority Principal Deputy Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

TY COBB, Esq.  
Hogan & Hartson  
555 Thirteenth Street, NW  
Washington, DC 20004  
On behalf of the Deponent.

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EXHIBITS

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Patricia Solis	IDENTIFIED
DEPOSITION NUMBER	
Solis Exhibit 1 .....	42, 2872

## P R O C E E D I N G S

MR. DINH: Ms. Solis, as you know, my name is Viet Dinh. I'm with the Majority staff of the Special Committee to investigate Whitewater Development Corporation.

This deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Senate Banking Committee to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and other related matters.

As you may know, the Special Committee has investigated and conducted hearings into a number of subjects. I will ask you to talk about knowledge you have to matters relevant to this continuing investigation, but I anticipate that the two main time periods that I will be asking you questions about is the period between July 20 and July 27, 1993 and the period in July and August of last year, 1995. I would ask you to focus on those.

Section 1(b)(1) of Resolution 120

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authorizes investigation and public hearings into whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House deputy counsel Vince Foster following his death.

Section 1(b)(3)(A) of Resolution 120 authorizes investigation and public hearings into the operations, solvency and regulation of Madison Guaranty Savings & Loan Association and any subsidiary affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association.

Section 1(b)(3)(C) of Resolution 120 authorizes investigation and public hearings into the policies, practices of the RTC and the federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings & Loan Association.

I anticipate that these subjects will be the focus of today's deposition.

This deposition is taken under oath and the stenographer will be preparing a record of questions

1 and answers. I would advise you that this deposition  
2 is being taken in advance of public hearings which  
3 are being conducted right now. We have not made a  
4 final determination as to who will be called at such  
5 public hearings, but if you do, you will get a copy  
6 of your transcript four days in advance  
7 approximately --

8 MR. KRAVITZ: Viet, my understanding is  
9 Ms. Solis is on the schedule for next week. I think  
10 she ought to be informed of that rather than saying  
11 something else.

12 MR. DINH: I believe that one of my  
13 colleagues has called Mr. Cobb advising him of the  
14 preliminary schedule that she is on the tentative  
15 schedule for next week, and of course we don't make  
16 that determination until and when we finish the  
17 deposition, as you well know, Mr. Kravitz.

18 MR. COBB: Actually what he said is there  
19 was a possibility she would be called next week and  
20 that that decision would be made after the  
21 deposition.

22 MR. DINH: That's exactly consistent, I

1 think, with what I have just said. Thank you very  
2 much, Mr. Cobb. And we will advise you as promptly  
3 as possible after the decision is made.

4 As I said, you will be provided a copy of  
5 your deposition four days in advance for the purpose  
6 of preparing for that, your testimony in the public  
7 hearings.

8 The transcript of this deposition will be  
9 remaining Committee confidential until the time when  
10 you are called at --

11 MR. KRAVITZ: Unless it appears in The  
12 Washington Post before then. Go ahead. I guess you  
13 didn't see this morning's Post, Viet.

14 MR. DINH: It will remain Committee  
15 confidential and you will be given an opportunity to  
16 make corrections to that transcript when the  
17 transcript is available. Our office will call you,  
18 Mr. Cobb, and arrange that for you; again, both of  
19 those reviews, that is for the review and not for  
20 release or any other purposes.

21 You may be represented by counsel and if  
22 counsel can make a representation on the record or an



1 appearance on the record.

2 MR. COBB: I'm Ty Cobb of Hogan & Hartson  
3 appearing on behalf of Ms. Solis.

4 MR. DINH: Pursuant to the procedures set  
5 forth in Resolution 120, objections as to the form of  
6 the questions shall be noted for the record. There  
7 are two grounds upon which counsel may instruct the  
8 witness not to answer. That is on privilege and  
9 scope, and we'll advise you that the Committee  
10 Chairman will ultimately rule on such objections.  
11 Whereupon,

12 PATRICIA SOLIS  
13 was called as a witness and, having first been duly  
14 sworn, was examined and testified as follows:

15 BY MR. DINH:

16 Q Can you state your name for the record,  
17 please.

18 A Patricia Solis.  
19  
20  
21  
22

1  
2 Q Your home phone number.

3 MR. KRAVITZ: Viet, is that something  
4 that's necessary for the Committee's fact-finding  
5 investigation, to have people's home telephone  
6 numbers in these transcripts?

7 MR. DINH: Yes, I think so because part of  
8 our investigation is if it's relevant to get the home  
9 telephone records of these people.

10 MR. KRAVITZ: Well, you don't need her  
11 telephone number in the deposition record in order to  
12 get her home telephone records, if that becomes  
13 relevant.

14 BY MR. DINH:

15 Q Ms. Solis, you may provide me privately  
16 with your home telephone number. Let me ask you  
17 this. Can you write for me your home telephone  
18 number?

19 MR. COBB: I'll just supply it to you after  
20 the deposition.

21 MR. DINH: This will be great. Thank you  
22 very much, Mr. Cobb.

1 BY MR. DINH:  
2 Q Is that telephone number the same as it was  
3 in July 1993?  
4 A Yes.  
5 Q Is that address the same as it was in 1993  
6 also?  
7 A No.  
8 Q Can you give me your address in July of  
9 1993?  
10 A 1320 21st Street, Northwest, Washington,  
11 20036.  
12 Q Thank you.  
13 MR. DINH: Off the record.  
14 (Discussion off the record.)  
15 BY MR. DINH:  
16 Q Back on the record.  
17 Ms. Solis, from the notice of deposition,  
18 have you had any conversations besides your immediate  
19 family members and your counsel regarding the matters  
20 that you will be testifying today?  
21 A No.  
22 Q Without telling me what you were asked or

1 what you said, can you tell me, have you been  
2 questioned by any other investigative agencies or  
3 personnel relating to the subject matters that you  
4 are about to testify?  
5 A No.  
6 Q Can you give me your educational  
7 background.  
8 A I graduated from Northwestern University.  
9 Q When was that?  
10 A 1989.  
11 Q Can you give me a brief history of your  
12 professional background.  
13 A After college I worked for the city of  
14 Chicago for a year, then worked on Mayor Daley's  
15 re-election campaign, and after that I worked for the  
16 city treasurer of Chicago and then went to Little  
17 Rock to work on the Clinton-Gore campaign.  
18 Q When did you join the Clinton-Gore  
19 campaign?  
20 A November of 1991.  
21 Q What was your position with the campaign in  
22 November of 1991?

1 A Scheduler to Hillary Rodham Clinton.

2 Q Has that remained your position with the  
3 campaign through the end of the campaign?

4 A Through the end of the campaign and through  
5 the transition and then at the Administration.

6 Q And during the Administration also?

7 A Yes.

8 Q So I take it, what is your current position  
9 now?

10 A I'm a special assistant to the President  
11 and director of scheduling for the First Lady.

12 Q And you've been in that position since  
13 January of 1993, I take it?

14 A Yes.

15 Q Can you give me your office phone  
16 extension?

17 A I have two. There's a general number which  
18 is 202-456-7560, and then my direct line, which is  
19 456-2468. And then, you know, there's another  
20 general number for First Lady scheduling, which is  
21 456-5318.

22 Q And the 2468 extension, do you share that

1 with anybody or is that your exclusive direct line?

2 A That's my exclusive direct line.

3 Q When did you first meet the President?

4 A It was early November 1991 at a fundraiser  
5 in Arkansas.

6 Q When you joined the campaign?

7 A When I joined the campaign.

8 Q Did you meet the First Lady at that time  
9 also or did you meet her earlier?

10 A Yes, I met her like the second day I  
11 joined -- or the third day I joined the campaign.

12 Q That would make sense since you were her  
13 scheduler.

14 A Right.

15 Q What are your duties as a scheduler for  
16 Mrs. Clinton?

17 MR. KRAVITZ: Do you mean now?

18 MR. DINH: Yes.

19 THE WITNESS: I schedule her public events,  
20 her domestic travel, her foreign travel, her  
21 meetings, her doctor's appointments. Basically, I  
22 schedule her life. And in that capacity I work with

1 various departments of the White House to make sure  
2 things are vetted properly, Secret Service, that  
3 logistics go well.

4 BY MR. DINH:

5 Q Do you travel with the First Lady when she  
6 goes on these trips that you schedule?

7 A No, not often.

8 Q But you would handle the scheduling even  
9 for the trips?

10 A Yes. For foreign travel, I travel ahead of  
11 her to plan the trip, but on domestic travel, no, I  
12 don't.

13 Q But you would plan her activities and  
14 schedule for the days that she is on this trip also?

15 A Yes.

16 Q There's no, like, trip scheduler?

17 A No.

18 Q How is this schedule circulated? Do you  
19 circulate a copy to Ms. Williams?

20 A Yes.

21 Q Who else do you circulate a copy of the  
22 schedule to?

1 A There are two versions of the schedule.  
2 One is a public schedule which goes to just about  
3 everybody, the press, the various departments in the  
4 White House -- well, the press and various  
5 departments in the White House, and then there's a  
6 private schedule and Maggie Williams, Mrs. Clinton,  
7 Capricia Marshall and I get a copy of that schedule.

8 Q And do you do these on a daily basis?

9 A Yes.

10 Q There's two sets of schedules every day  
11 that you print out?

12 A Right.

13 Q Now, let me direct your attention to the  
14 scheduling procedures when Mrs. Clinton is on a  
15 trip. Do you print out the two sets of schedules  
16 from your office then also?

17 A No, normally on a trip everything is public  
18 because it's a press day schedule, everything she  
19 does is open to the press normally, so there's no  
20 need to.

21 Q So you would plan it in advance and then  
22 would not have daily schedules for her? Would you



1 have daily schedules for her?

2 A Yes.

3 Q You would have daily schedules?

4 A Yes. There are always daily schedules.

5 MR. KRAVITZ: I think her point was that  
6 when Mrs. Clinton is on a trip there's only a public  
7 schedule, no separate private schedule. Was I  
8 correct?

9 THE WITNESS: Yes.

10 BY MR. DINH:

11 Q Let me direct your attention now to the  
12 night of July 20, 1993, and if I can focus your  
13 attention on the events of that night, that is the  
14 night that Mr. Foster passed away. Do you remember  
15 where you were that night?

16 A Yes. I was at a going away party for a  
17 friend on Capitol Hill at a bar.

18 Q Did you stay at that party -- actually,  
19 when did you hear of Mr. Foster's death?

20 A I didn't hear about it until the morning  
21 after at work.

22 Q That would be July 21?

1 A Yes.

2 Q So you were not in the White House at any  
3 time on July 20 -- I mean on the evening of July 20,  
4 1993?

5 A No, not that I recall.

6 Q And you did not receive any phone calls or  
7 messages at home notifying you of Mr. Foster's death?

8 A No.

9 Q Did you carry a pager at that time?

10 A Yes.

11 Q Nobody paged you?

12 A Not to the best of my recollection, no.

13 Q Do you usually keep the door to your office  
14 closed at night?

15 A At night when I'm not there?

16 Q Yes.

17 A Oh, yes.

18 Q Is that locked?

19 A I have two doors to my office, one door  
20 opens up to the sort of scheduling-in-advance wing of  
21 the White House and that one is not locked, but the  
22 door that opens to the corridor of the OEOB is

1 locked, so you have to get into the wing to get to my  
2 office.

3 MR. KRAVITZ: Viet, just so the record is  
4 clear, when you asked that question, were you  
5 referring specifically to the time period of July  
6 1993 or just more generally? I'm not sure what the  
7 witness understood.

8 MR. DINH: That was a more general  
9 practice.

10 THE WITNESS: Well, that's what I do all  
11 the time.

12 BY MR. DINH:

13 Q And by "all the time," I take it that  
14 includes July 20, 1993?

15 A Sure.

16 Q You didn't recall being out of the ordinary  
17 as far as your normal procedure?

18 A No.

19 Q When you came in in the morning of July 21,  
20 1993, did you have any messages on your desk or under  
21 your door regarding a change in the First Lady's  
22 schedule in light of Mr. Foster's death?

1 A No.

2 Q Did somebody subsequently communicate to  
3 you the need or express a concern about the need to  
4 change the First Lady's schedule in light of  
5 Mr. Foster's death?

6 A Yes. Mrs. Clinton was in Arkansas at the  
7 time, and she had a public event scheduled at the  
8 Arkansas Children's Hospital. And Maggie Williams  
9 and I discussed, you know, the possibility of  
10 canceling that just because Mrs. Clinton was  
11 grieving, and she wouldn't be up for it, but then  
12 Maggie told me that she wanted to do it and that we  
13 were going to do it.

14 Q Actually, let's back up. When you came in  
15 on the 21st, who told you Mr. Foster had passed away?

16 A Well, actually I was going through the  
17 magnetometer that you have to go through to get into  
18 the OEOB, and a colleague said, did you hear about  
19 Vince, isn't it awful? And I said what, and he said,  
20 he killed himself. And I didn't believe it at  
21 first. I told him that that was a sick joke. Then  
22 he told me it's true and then I was just shocked,

1 went to my office, closed the door, cried a little  
2 bit and then --

3 Q Who was this colleague?

4 A He worked in research. His name escapes me  
5 right now. He's right now at Yale. He left. He was  
6 like an intern.

7 Q That's quite all right.

8 A Paul Meyer.

9 MR. DINH: Off the record.

10 (Discussion off the record.)

11 BY MR. DINH:

12 Q Back on the record.

13 And when approximately during the day of  
14 the 21st did you have this conversation with  
15 Ms. Williams?

16 A I don't remember. I'm thinking sometime in  
17 the morning.

18 Q Sometime in the morning, okay. Now,  
19 Mrs. Clinton's event at the children's hospital, was  
20 that on the 21st or was that on the 22nd, do you  
21 recall?

22 A I don't recall which day specifically.

---

1 Q But it's one of those days, one of those  
2 days that she's in Little Rock?

3 A Right.

4 Q Were you in the White House on July 22,  
5 which is the next day, which would be Thursday, July  
6 22?

7 A Yes.

8 Q Actually incidentally, let's back up a  
9 little bit. Where is your office? You said it was  
10 in the Old Executive Office Building?

11 A Yes, it's room 189 of the Old Executive  
12 Office Building, which is --

13 Q Is that in the same suite of offices as  
14 Ms. Williams's office is?

15 A No, it's kitty corner.

16 Q It's kitty corner, right next door?

17 A Across, on the corner.

18 Q In close proximity?

19 A Yes.

20 Q Directing your attention now to July 22,  
21 1993, when did you get in the office approximately?

22 A I don't remember. I usually get in between

1 8:00 and 9:00.

2 Q Do you talk to Ms. Williams on a regular  
3 basis, on a daily basis?

4 A Yes.

5 Q Did you talk -- did you have any  
6 conversations with Ms. Williams that day that you can  
7 specifically remember?

8 A Which day?

9 Q July 22, 1993.

10 A Not that I can specifically remember, no.

11 Q Do you recall any discussions with  
12 Ms. Williams regarding the files in Mr. Foster's  
13 office?

14 A No.

15 Q Do you recall any discussions with  
16 Ms. Williams regarding Mr. Foster's office?

17 MR. KRAVITZ: Do you mean that day or at  
18 any time?

19 MR. DINH: That day.

20 THE WITNESS: No.

21 BY MR. DINH:

22 Q Do you recall having any conversation with

---

1 anybody in the White House regarding the files in  
2 Mr. Foster's office on that day?

3 A No.

4 Q Do you recall overhearing Ms. Williams  
5 having any discussions with anybody on that day  
6 regarding the files in Mr. Foster's office?

7 A No.

8 Q Did you receive a call from Susan Thomases  
9 that day, July 22, 1993?

10 A Not that I remember.

11 Q Do you recall discussing files in  
12 Mr. Foster's office with Ms. Susan Thomases --

13 A No.

14 Q -- on that day?

15 A No.

16 Q Ever?

17 A Ever, no.

18 Q Do you talk to Ms. Thomases often?

19 A Yes.

20 Q Is this part of your scheduling duties that  
21 you would talk to Ms. Thomases, or is it other  
22 reasons?



1 A Well, Susan and I are friends. Susan  
2 Thomases and I are friends. She was my boss in the  
3 campaign. We talk regularly.

4 Q And I take it that those conversations were  
5 happening in 1993?

6 A Yes.

7 Q With Ms. Thomases?

8 A Yes.

9 Q Do they continue to this day?

10 A Yes.

11 MR. COBB: "Those conversations" being  
12 content and not specific?

13 MR. DINH: Content, exactly.

14 BY MR. DINH:

15 Q Did you see Ms. Thomases at the White House  
16 that day, on July 22, 1993?

17 A Not that I remember, no.

18 Q Do you work -- at the time in July of 1993,  
19 did your regular duties in the White House bring you  
20 into contact with Mr. Nussbaum, Bernard Nussbaum?

21 A No.

22 Q Let me ask you if you specifically recall

---

24

1 seeing Mr. Nussbaum on July 22, 1993.

2 A No.

3 Q Did you have any conversations with  
4 Mrs. Clinton on July 22, 1993?

5 A Not that I recall, no.

6 Q Do you recall when your first conversation  
7 with Mrs. Clinton was after Mr. Foster's death, on  
8 July 20, 1993?

9 A No, I don't specifically remember.

10 Q It doesn't stand out in your mind?

11 A No.

12 Q Did you go to the funeral of Mr. Foster in  
13 Little Rock?

14 A No.

15 Q You stayed here in Washington?

16 A Yes.

17 Q Did you come into the office on Saturday of  
18 that week?

19 A I don't remember.

20 Q Saturday of that week would be July 24,  
21 1993. You don't recall?

22 A I don't remember.

1 Q Do you recall talking with Ms. Thomases  
2 over that weekend; that is, either on Saturday the  
3 24th or on Sunday the 25th, 1993?

4 A No, I don't.

5 Q Would Ms. Thomases call you in order to  
6 schedule something with Mrs. Clinton, besides your  
7 normal, friendly conversations?

8 A When she wanted to see her?

9 Q Yes.

10 A Sure.

11 Q She would call you and contact you for that  
12 purpose also?

13 A Yes.

14 Q So your contacts with Ms. Thomases could be  
15 either professional in the sense of scheduling a time  
16 with Mrs. Clinton or personal in the sense of you two  
17 being friends and just wanting to chat?

18 A Yes.

19 Q Specifically directing your attention to  
20 July 24, that is the Saturday after Mr. Foster's  
21 death in 1993, do you recall receiving a phone call  
22 from Ms. Thomases, who was then in her house in

1 Newport, Rhode Island?

2 A No, I don't recall.

3 Q Do you recall receiving a message from  
4 Ms. Thomases on that day --

5 A No.

6 Q -- on your answering machine or from some  
7 other source?

8 A No.

9 Q Do you recall talking with Ms. Thomases  
10 over that weekend?

11 A No, I don't.

12 Q Do you recall when the first time was that  
13 you talked to Ms. Thomases after Mr. Foster's death?

14 A No, not specifically.

15 Q Let me direct your attention to even a  
16 smaller time frame. Do you recall at approximately  
17 7:00 on Saturday evening, which is a rather  
18 significant time -- I know it is in my personal  
19 schedule -- do you recall at that time receiving a  
20 phone call from Ms. Thomases?

21 A No, I don't.

22 Q You don't recall getting a message from her

1 at approximately that time, from Ms. Thomases either?

2 A No, I don't.

3 MR. KRAVITZ: Is there something you want  
4 to show her to try to refresh your memory? You seem  
5 to be looking at a document. Is the answer no?

6 MR. DINH: I think you should worry less  
7 about what I'm looking at.

8 MR. KRAVITZ: I'm worried about trying to  
9 have an accurate factual record for this Committee's  
10 investigation. It seems to me instead of playing  
11 "gotcha," you ought to show her a document that --  
12 if you have something that might refresh her memory.  
13 Is the answer to that no, Viet, you're not going to  
14 show her a document that you appear to be looking  
15 at?

16 The record will reflect and should reflect  
17 that when you were asking Ms. Solis those questions,  
18 you were looking at a document, which from my vantage  
19 point appeared to be some sort of telephone record,  
20 and I take it your decision is that you're not going  
21 to show whatever that was to Ms. Solis to see if it  
22 refreshes your memory, so I suppose that's your

1 prerogative, but I think it's pretty unprofessional  
2 under the circumstances.

3 MR. DINH: Thank you very much for that  
4 comment, Mr. Kravitz. It is my professional judgment  
5 on how to conduct this deposition, what documents to  
6 use. If you would like to show Ms. Solis any  
7 documents, please feel free to do so on your own time  
8 and --

9 MR. KRAVITZ: Why don't you share with me  
10 what that document was.

11 MR. DINH: Likewise. I mean it is my  
12 prerogative how to conduct this deposition. If you  
13 haven't done your homework, please, you know, don't  
14 rely on me to do your homework for you.

15 MR. COBB: As somebody who has done his own  
16 homework, I think the record is that while she wasn't  
17 specifically asked is there any possibility you  
18 received a phone call, is there any possibility you  
19 didn't, you asked her specifically whether she had  
20 any personal independent recollection of events 2-1/2  
21 years ago on a specific day at specific times and she  
22 doesn't.

1 MR. DINH: Exactly. That's exactly what I  
2 am trying to probe is your specific recollection. I  
3 think the records can speak for themselves and I  
4 think that my questions have adequately focused your  
5 attention to that particular time period.

6 And let me assure you, I'm not trying to  
7 play "gotcha." If I'm trying to play gotcha, you  
8 will know. I take it your counsel, who is one of the  
9 most able counsel in this town, will also know.

10 MR. COBB: I am going to order a copy of  
11 this transcript, though.

12 (Laughter.)

13 BY MR. DINH:

14 Q As part of your duties as the First Lady's  
15 scheduler, do you sometimes make phone calls on her  
16 behalf?

17 A No. To schedule a meeting for her or an  
18 event, but not for her, no.

19 Q So the procedure would be the First Lady  
20 would call you in and say please schedule a meeting  
21 with so-and-so or something like that, if she wants  
22 to see somebody?

1 A The First Lady and I meet on a regular  
2 basis and we discuss the schedule there, and if she  
3 wants me to schedule something, I'll do it.

4 Q When you say regular basis, is that daily?

5 A We are scheduled to meet, she, Maggie  
6 Williams and I, on a daily basis. Sometimes, you  
7 know, she is running late or it's not convenient, so  
8 we'll take care of it with a phone call or we just  
9 don't meet because there's nothing we need to  
10 discuss.

11 MR. DINH: Off the record.

12 (Discussion off the record.)

13 BY MR. DINH:

14 Q Back on the record.

15 So these scheduling meetings with  
16 Ms. Williams, is there anybody else at these meetings  
17 usually?

18 A No.

19 Q It's just you, Ms. Williams and the First  
20 Lady?

21 A Yes.

22 Q Do they usually take place in the morning?



1 A In the beginning of the Administration they  
2 took place in the morning, at the beginning of the  
3 day. At some point, I don't remember when, we  
4 switched them to the afternoon.

5 Q To the afternoon. At some point. Can you  
6 give me a time frame, like end of 1994, beginning of  
7 1995, middle of 1995?

8 A Probably sometime in 1994, middle of 1994.

9 Q So it's safe to assume that in 1993, you  
10 had your meetings in the morning?

11 A Yes.

12 Q And by 1995 you had your meetings in the  
13 evening?

14 A In the afternoon.

15 Q In the afternoon. What time in the  
16 afternoon?

17 A They're scheduled for 3:00, but again,  
18 they're at the convenience of the First Lady.

19 Q Right. Sometimes she runs late in her  
20 schedule, which you schedule?

21 A Uh-huh.

22 Q And it is during these meetings that she

1 would tell you a list of persons or list of events or  
2 meetings that she would like to be scheduled on her  
3 calendar?

4 A It's a meeting where I can update on her  
5 schedule and what she's doing and she can ask me any  
6 questions or direct me to do any other meetings.

7 Q Besides this formal meeting on a daily  
8 basis, as regular as the First Lady's schedule  
9 permits, besides this formal meeting, are there  
10 occasions that Mrs. Clinton would call you up  
11 personally and say "oh, I want to meet with this  
12 person also"?

13 A Yes.

14 Q Does that happen on a regular basis?

15 A Yes.

16 Q Once a week, twice a week?

17 A Probably once or twice a week.

18 Q But you try to keep everything in the  
19 formal meeting so that -- to make your job a little  
20 easier and to make her schedule more regular?

21 A Right, but you know, I've worked for her  
22 for a long time, so she feels very comfortable just

1 picking up the phone and calling me if she needs  
2 something.

3 Q Sometimes things come up and she needs her  
4 schedule rearranged to insert another person or  
5 something like that?

6 A Yes.

7 Q Let me direct your attention -- actually,  
8 let me go back again to near the period between July  
9 24 and 25. I know you've testified that you don't  
10 recall speaking specifically with Ms. Thomases, but I  
11 was just wanting to ask a more direct question,  
12 whether you recall her calling you at any time during  
13 that -- after Mr. Foster's death, that week from July  
14 20 through the 25th, to ask for a meeting with  
15 Mrs. Clinton when she gets back from Little Rock.

16 A No, I don't.

17 MR. COBB: Is that the sketch of somebody's  
18 cranium or --

19 MR. DINH: Everything looks like somebody's  
20 cranium upside down.

21 BY MR. DINH:

22 Q Okay. Let me move now to July 26, which is

---

1 the Monday after Mr. Foster's death. Do you  
2 recall -- I take it you were in the White House that  
3 day, Monday, regularly?

4 A I'm sure.

5 Q Do you recall any conversations that you  
6 may have had that day regarding a note in  
7 Mr. Foster's handwriting?

8 A No.

9 Q You don't, okay. Do you recall overhearing  
10 any such conversations?

11 A No.

12 Q Did you see Mrs. Clinton that day, if you  
13 can remember?

14 A I don't remember.

15 Q Do you recall having any conversations with  
16 Ms. Thomases that day?

17 A No, I don't.

18 Q Either in person or over the telephone?

19 A No, I don't.

20 Q When did you first hear that a note in  
21 Mr. -- apparently in Mr. Foster's handwriting had  
22 been discovered in the White House?

1 A I don't remember. I think I might have  
2 heard it on the news.

3 Q On the news. But you don't specifically  
4 recall that event, actually when you found that out?

5 A No.

6 Q Unlike your reaction of Mr. Meyer telling  
7 you of Mr. Foster's death?

8 A Right.

9 Q That's certainly understandable. One is  
10 much more dramatic than the other.

11 Let me turn your attention now to July 27,  
12 1993, which is the Tuesday of that week, and let me  
13 show you an exhibit marked ST 126, I believe. The  
14 copy is kind of bad. I'll ask you to study that for  
15 a moment.

16 (Witness reviewed the document.)

17 Let me represent to you that this has been  
18 produced to our Committee as a page from Ms. Susan  
19 Thomases message pad for July 27, 1993, and that is  
20 reflected on the upper left corner with the date as  
21 July 27. Can you read the message line for me that  
22 is there on that?

1 A It says "Patti Solis, HRC wants to see you  
2 today," and then there's a check mark.

3 MR. COBB: How come that one doesn't --

4 MR. DINH: Off the record.

5 (Discussion off the record.)

6 BY MR. DINH:

7 Q Back on the record.

8 Do you recall placing this call to  
9 Ms. Thomases' office?

10 A No, I don't.

11 Q On that day, you don't. Do you recall  
12 receiving a return phone call from Ms. Thomases or  
13 her assistant?

14 A No, I don't.

15 Q Let me represent to you further that we've  
16 learned that the check mark is an internal device in  
17 Ms. Thomases office to denote that the call was  
18 returned. I would just like for you to take a moment  
19 and focus your attention again to this particular  
20 day, that is, it is July 27, which is  
21 approximately -- exactly one week after Mr. Foster's  
22 death, on a Tuesday, and ask you again to see whether

1 you recall scheduling a meeting for Ms. Thomases and  
2 Mrs. Clinton on that day.

3 A I don't recall.

4 Q Do you personally retain old copies of the  
5 First Lady's schedule and calendar?

6 A Yes, I keep a record of her schedule.

7 Q And to what date do you have that record  
8 back to?

9 A I have her schedule from January 20, 1993  
10 until the present day.

11 Q Until the present day. And that includes  
12 both the private schedule and the public schedule?

13 A Yes.

14 Q For each day. Now, exactly -- when you  
15 said "records," do you keep just the copies of the  
16 page that went out to Ms. Williams with respect to  
17 the finalized private schedule, the finalized public  
18 schedule, or do you also keep other notes that you  
19 made in making that schedule?

20 A No, I just keep the finalized copy of the  
21 schedule.

22 Q The finalized copies. And your notes, I

1 take it -- do you keep your notes also?

2 A No. Once the day is over, I toss them.

3 Q That is certainly understandable. But you  
4 do keep the final private schedule and the final  
5 public schedule for every day back to January 20,  
6 1993?

7 A Yes.

8 Q Again, just focusing your attention on that  
9 particular day, that is Tuesday, July 27, 1993, do  
10 you recall seeing Ms. Thomases in the White House  
11 that day?

12 A No, I don't.

13 Q Do you know who Mr. Robert Barnett is?

14 A Yes, I do.

15 Q Do you recall seeing him on July 27, 1993  
16 in the White House?

17 A No, I don't.

18 MR. COBB: I would like to interject here  
19 just for clarification, and I think it's well  
20 understood, but I just want the record to be clear.  
21 What we're talking about is her specific independent  
22 recollection of these events, not that there's a



1 possibility that they happened or the people were  
2 there.

3 MR. DINH: Right, right, certainly.

4 BY MR. DINH:

5 Q Let me represent to you that we have  
6 records suggesting that Mr. Barnett and Ms. Thomases  
7 were there in the White House at approximately the  
8 same time, around 3:00 on that day. Does that  
9 refresh your recollection at all of whether you saw  
10 them there that day?

11 A No.

12 Q Saw them together, maybe entering together  
13 or leaving together, does that refresh your  
14 recollection?

15 A No.

16 Q So you don't recall seeing them?

17 A No, I don't.

18 Q You could have but you don't recall?

19 A I don't remember seeing them.

20 Q Do you know who Diane Blair is?

21 A Yes.

22 Q Do you recall seeing Ms. Blair in the White

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40

1 House during that week; that is, from July 20 through  
2 the 27th, 1993?

3 A No, I don't.

4 Q I know I asked you this question with  
5 respect to July 22, 1993, but let me ask you more  
6 generally for the entire week from July 20 through  
7 July 27, 1993, that is the one-week period between  
8 Tuesday and Tuesday, and ask whether you recall  
9 having any discussions about files in Mr. Foster's  
10 office.

11 A No, I don't.

12 Q Did you have any discussions regarding a  
13 search or inventory of Mr. Foster's office?

14 A No, I didn't.

15 Q Do you recall overhearing anybody in the  
16 White House conducting any conversations regarding,  
17 concerning the files in Mr. Foster's office?

18 A No.

19 Q After you learned about the discovery of  
20 the note apparently in Mr. Foster's handwriting, did  
21 you have any discussions about it with anyone in the  
22 White House?

1 A No.

2 Q Let me direct your attention now to the  
3 period of July and August of last year, 1995.

4 MR. COBB: Are we shifting into a new  
5 area?

6 MR. DINH: Yes.

7 MR. COBB: Can we take a short break?

8 MR. DINH: Sure.

9 (Recess.)

10 BY MR. DINH:

11 Q Let me direct your attention now to the  
12 period of July and August of 1995, which is last  
13 year. Specifically I would like to concentrate on  
14 the time period before Mrs. Clinton went on vacation  
15 in Wyoming, I believe, in that summer. I believe she  
16 went on vacation starting August 15, so let me just  
17 direct your attention to the period July and August  
18 of 1995, July to August 15, 1995.

19 Have you ever been to the third floor of  
20 the White House residence?

21 A Yes.

22 MR. DINH: Let me show you a sketch and ask

1 that it be labeled Solis Exhibit 1.

2 (Solis Exhibit 1 identified.)

3 BY MR. DINH:

4 Q And let me direct your attention to the top  
5 left-hand corner of that diagram -- actually, top  
6 right-hand corner of that diagram. I apologize. I'm  
7 a little bit dyslexic. And just to orient you, the  
8 top is south. The top is south, obviously with the  
9 portico there reflected.

10 Let me represent to you that this is an old  
11 plan of the third floor of the White House. Does  
12 this approximately represent your recollection of  
13 what the third floor of the White House residence  
14 appears to be?

15 A I'm so bad with diagrams, but I suppose so,  
16 yes.

17 MR. KRAVITZ: Viet, can you tell us what  
18 you know -- what do you mean by "old"? I mean do you  
19 have any information that this has been renovated and  
20 changed since this was drawn?

21 BY MR. DINH:

22 Q Based on deposition testimony that I

1 believe Mr. Kravitz attended or should have read,  
2 that there has been some alterations done to this.

3 Let me tell you that by "old," I mean like  
4 the Truman administration. They are -- as you  
5 understand, these plans are fairly sensitive so we  
6 only have historical plans.

7 Let me direct your attention again to the  
8 area of the plan that is on the top right-hand  
9 corner, and if I can direct your attention to the  
10 room labeled 323, and then moving right, the suite of  
11 rooms labeled 320, 321 and 322, okay. And then --

12 MR. DINH: Off the record.

13 (Discussion off the record.)

14 BY MR. DINH:

15 Q Back on the record.

16 And then moving around the corner from that  
17 suite of rooms, directing your attention to 319A,  
18 which is that, and let me represent to you that 323  
19 is an office that I understand to be was renovated  
20 for Ms. Huber's use and in 1995 was used by the First  
21 Lady with respect to some work regarding her book.  
22 The rooms that are labeled and the suite of rooms

1 that are 320, 321 and 322 in this corner right there  
2 (indicating) in the upper right-hand corner are now  
3 one room, and that is the residence exercise room.

4 Have you ever seen the residence exercise  
5 room?

6 A No.

7 Q Okay, good. That saves us a lot of time.

8 A Good.

9 Q Let me direct your attention now to room  
10 319A, which is just right below the exercise room,  
11 and represent to you that that is what we understand  
12 to be the book room, what is commonly called the book  
13 room. Do you know -- have you ever been to what is  
14 commonly called the book room?

15 A Yes.

16 Q On what occasion did you go to the book  
17 room?

18 A I don't remember quite what month, it could  
19 have been September or October, but I was waiting to  
20 meet with Mrs. Clinton in this room, which I call the  
21 computer room.

22 Q The computer room, okay.

1 MR. KRAVITZ: Which room is that?

2 MR. COBB: This room, pointing to 323 on  
3 this chart, although each one of these rooms has  
4 multiple numbers.

5 BY MR. DINH:

6 Q Right. Let me just explain briefly. The  
7 other numbers, the other smaller numbers, all have  
8 arrows leading to them, and those reflect door  
9 numbers.

10 MR. COBB: And my point is not to contest  
11 the diagram but that obviously Ms. Solis,  
12 notwithstanding intensive mechanical drawing  
13 training, I don't think spends much of her time with  
14 diagrams of this type, so the -- I think when we're  
15 talking about it, I think everybody understands what  
16 you mean by room 323 here, but that there are  
17 multiple numbers. It might be useful --

18 BY MR. DINH:

19 Q Let me take a blue highlighter and mark on  
20 Solis Exhibit 1 what I would have been referring to  
21 as the room numbers.

22 MR. COBB: Just so I understand, there's

1 the possibility that, and correct me if I'm wrong,  
2 but there is the possibility from what you've  
3 described or what you've represented that the  
4 entrances, exits, closets and other things that  
5 appear on this Truman administration diagram may not  
6 precisely match what it is today, but we're talking  
7 about general locations?

8 MR. DINH: Where they differ from today and  
9 where they are relevant I will point that out to you  
10 specifically.

11 MR. COBB: All right. Thanks.

12 BY MR. DINH:

13 Q When was this, sometime in October or  
14 November of last year?

15 A September or October.

16 Q Was that the first time you went to the  
17 book room?

18 A No, and I don't have a specific  
19 recollection as to the date, but in the beginning of  
20 the Administration, we sort of got a tour of the  
21 House, and I'm sure I went up there at that point.

22 Q By "the House," you mean the residence?



1 A The residence.

2 Q Other than these two occasions, have you  
3 ever been to the book room?

4 A Those are the only two vivid recollections  
5 I have of being in the book room.

6 Q And you said this was in September and  
7 October of 1995 that you went up there and waited in  
8 the book room, so this would have been after  
9 Mrs. Clinton returned from her vacation?

10 A Yes.

11 Q You're certain of that?

12 A Yes.

13 Q Were other people in the book room in  
14 September or October of 1995 that you recall?

15 A Yeah, the 319A that you're calling the book  
16 room was sort of used as a workroom for the book that  
17 Mrs. Clinton was writing.

18 Q For the assistants who were helping her on  
19 the book -- did Mrs. Clinton use the book room for  
20 that purpose also?

21 A She was never there when I was there, so  
22 there were -- during the period of time that I was

1 there, there were a couple of maids that went in  
2 there, Capricia Marshall was there, and I was just  
3 waiting for Mrs. Clinton to arrive for our meeting,  
4 and then we were going to go into the computer room,  
5 or room 323.

6 Q Did you recall seeing a table in the book  
7 room at that time? Actually, how long were you in  
8 the book room during this period?

9 A Not long. A few minutes.

10 Q Do you recall seeing any tables in the book  
11 room?

12 A My recollection of the book room at that  
13 time was a couple of tables, some laptops, a  
14 printer. It was a workroom, you know, paper  
15 everywhere.

16 Q So there were a number of computers set up  
17 in that room?

18 A A couple of laptops.

19 Q Because by that time it was used as a  
20 working space for the book; correct?

21 A Right.

22 Q So there were several tables around or was

1 there one large table with a lot of laptops on it?

2 A I don't remember if it was one large table  
3 with a laptop in this corner and a laptop on that  
4 corner or two separate tables. I don't remember.

5 Q Does your work for Mrs. Clinton take you to  
6 the White House residence often?

7 A Yes.

8 Q And when I say "often," I know what I  
9 mean. What do you mean by "often"? Would it be once  
10 a day?

11 A Well, again, we're scheduled to meet every  
12 day and at the convenience of Mrs. Clinton, and often  
13 that convenience is in the residence.

14 Q Where are these meetings generally held?

15 A Most of my meetings with Mrs. Clinton in  
16 the residence are on the second floor, usually in the  
17 west sitting hall.

18 Q I mean like the scheduling meetings in  
19 general, when they're not held in the residence at  
20 her convenience, where are they usually held, or is  
21 the residence the usual place where you hold them?

22 A Again, when I say at her convenience, if

50

1 she's in the OEOB doing a meeting or videos or  
2 whatever it is she does there, she'll come to Maggie  
3 Williams's office in the OEOB and we'll do it there,  
4 or if she's in her West Wing office, we'll do it  
5 there. Wherever she is is where we'll do it.

6 Q Right, right. Other than to attend  
7 meetings with Mrs. Clinton regarding the scheduling,  
8 that is, these daily meetings that you were telling  
9 me about, are there other occasions or reasons that  
10 would bring you into the White House residence?

11 A No.

12 Q And you said that your meetings with  
13 Mrs. Clinton when they take place in the residence  
14 will take place on the second floor?

15 A Yes.

16 Q Where on the second floor?

17 A The west sitting, sometimes -- west sitting  
18 hall, sometimes. Sometimes in the dining room,  
19 sometimes in the kitchen.

20 Q And you say that -- this is usually in the  
21 afternoon?

22 A Yes.

1 Q At around 3:00, give or take, depending on  
2 the First Lady's schedule?

3 A Right.

4 MR. COBB: I think for the record, Viet,  
5 what she said was that is the current practice,  
6 previously it was a morning meeting.

7 MR. DINH: Great. Thank you very much.

8 BY MR. DINH:

9 Q As I recall, this happened sometime in  
10 1994; correct?

11 A Yes.

12 Q So in 1995 certainly it was in the  
13 afternoon?

14 A Yes.

15 Q Or generally in the afternoon, generally  
16 give and take around 3:00 in the afternoon?

17 A It was at her convenience.

18 Q How long would these meetings generally  
19 last?

20 A Well, they're scheduled for 15 minutes, but  
21 again, depending on what we had to talk about, they  
22 would run shorter or longer.

1 Q And these meetings are, as you testified  
2 earlier, with Maggie Williams?

3 A Yes.

4 Q And you said that generally it's just with  
5 you and Maggie Williams. Does it ever include other  
6 people?

7 A There's a weekly scheduling meeting which  
8 includes the senior members of her staff, but usually  
9 the daily scheduling meetings are just Maggie  
10 Williams, myself and Mrs. Clinton.

11 Q When are the weekly scheduling meetings  
12 scheduled for?

13 A I try to do them on Fridays but again, at  
14 the convenience of Mrs. Clinton.

15 Q And what other members of her staff are  
16 included in this weekly scheduling meeting?

17 A Her social secretary.

18 Q Who is?

19 A Ann Stock. Her Deputy Chief of Staff,  
20 Melanne, M-e-l-a-n-n-e, Revere, Maggie Williams,  
21 myself, her press secretary, Lisa Caputo, and her  
22 special assistant, Capricia Marshall.

1 Q Do other members of her staff occasionally  
2 join you in this weekly scheduling meeting?

3 A Not really.

4 MR. COBB: You mean has anybody ever been  
5 there or is it a custom that somebody participates?

6 BY MR. DINH:

7 Q Custom. I said occasionally. I said --  
8 not usually is your answer with respect to that?

9 A It all depends on what the topic of  
10 discussion is. For instance, if we're talking about  
11 a major foreign trip, sometimes we'll add in a trip  
12 director or someone from the NSC, just to sort of  
13 brief, but usually not.

14 Q So usually just these seven people?

15 A I'm trying to make sure I didn't forget  
16 anybody.

17 Q You've stated the social secretary, the  
18 Deputy Chief of Staff, the Chief of Staff to the  
19 First Lady, press secretary Lisa Caputo and special  
20 assistant Capricia Marshall and yourself, of course.

21 A That's right.

22 Q So it's not usual but sometimes it could

1 include other people?

2 A Yes.

3 Q When you enter the residence on these  
4 occasions, which way do you usually enter?

5 A I take the elevator, go through -- walk  
6 through the colonnade and go through the basement, or  
7 the ground floor of the residence and get on the  
8 elevator and go up.

9 Q You enter the elevator on the ground floor  
10 there?

11 A Uh-huh.

12 Q What is called the President's elevator or  
13 do you know if that is the common --

14 A I just call it the elevator.

15 Q It's an elevator that goes directly from  
16 the ground floor to the second floor?

17 A Yes.

18 Q Does it have a button for the third floor  
19 also?

20 A Yes.

21 Q Is there a Secret Service officer outside  
22 that elevator?



1 A Yes.

2 Q Does he usually know who you are or does  
3 he -- do you usually wait, stop at that Secret  
4 Service post?

5 A You know, I've been there so long usually I  
6 just go right up, but when there's a new officer, new  
7 UD officer, uniformed division, he asks me my name.

8 Q And then do you recall if he makes a  
9 notation on a log of some sort after he does so?

10 A I don't know.

11 Q But after he asks you your name, does he  
12 check a list to see whether you have access to the  
13 residence?

14 A I don't know. He asks me my name, I say my  
15 name, I say I'm going to go see Mrs. Clinton and then  
16 he says okay.

17 Q Other than those occasions when a new  
18 uniformed division officer asks you your name, have  
19 you ever been challenged, and by "challenged," I mean  
20 has anybody else stopped you while you're in the  
21 residence, not at this gate, while you're in the  
22 residence, and asked you your name or your -- for

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1 your ID or something like that?

2 A You mean when I'm on the second floor?

3 Q Yes, when you're walking from the elevator  
4 on the second floor going to your meetings.

5 A No.

6 Q Directing your attention now to the date  
7 July 20, 1995, this is last summer, do you recall  
8 going up to the residence that day?

9 A No.

10 Q Incidentally, do you ever meet -- at the  
11 daily scheduling meeting, do you ever meet without  
12 Ms. Williams?

13 A Yes, sometimes.

14 Q Sometimes? And when would those occasions  
15 be? What would be the reason for that?

16 A One reason might be if Maggie had another  
17 meeting that she couldn't get out of, one reason  
18 might be Maggie is sick or another reason might be --  
19 you know, it's pretty much a very simple schedule,  
20 you know, personal stuff, and I can just do it  
21 without her.

22 Q Does this happen often?

1 A I'm having trouble with the "often" --

2 Q Right --

3 A -- and "occasionally."

4 Q Can you tell me how often this happens?

5 Once a month, twice a month, once a week?

6 A Maybe once every couple of weeks.

7 Q Once every couple of weeks. Let me show

8 you now a record labeled S 020056 and let me

9 represent to you that they are the Secret Service

10 logs maintained at the station by the elevator there

11 that records entries and exits of personnel into the

12 White House residence. I would like to direct your

13 attention to the place where -- the second place

14 where I've highlighted.

15 MR. COBB: Second place being further down  
16 the page?

17 MR. DINH: Right.

18 BY MR. DINH:

19 Q That says "Patty Solis, up," that means

20 entries into the residence, at 1421, that would be

21 military time, 2:21, and down at 1455, and that would

22 be 2:55.

1 Does this refresh your recollection as to  
2 whether you went up to the residence that day, that  
3 day being 7-20-95, and you'll see up at the top  
4 right-hand corner, that would be a Thursday?

5 A No, but they spelled my name wrong.

6 Q They spelled it with a Y instead of an I?

7 A Yes.

8 Q That does not refresh your recollection as  
9 to that particular entry and exit?

10 A No.

11 Q Looking at the time recorded on the log,  
12 can you -- is that consistent with a scheduling  
13 meeting, a daily scheduling meeting?

14 A Yes.

15 Q Let me ask it another way. Would you have  
16 any other reason to go into the White House  
17 residence?

18 A No. I might have reason to go to the  
19 usher's office to drop something off, but --

20 Q What would you drop off?

21 A Anything for Mrs. Clinton but not to the  
22 residence.

1 Q Not to the residence, okay. The usher's  
2 office is on what floor?

3 A It's on the first level.

4 Q But you wouldn't -- would you go --

5 A On the state floor.

6 Q Would you go through the elevator?

7 A No, I would just take the stairs.

8 Q Up to the state floor?

9 A Yes.

10 Q But when you entered the residence, it  
11 would be to meet with Mrs. Clinton?

12 A Yes.

13 Q And do you meet with Mrs. Clinton for any  
14 other reason other than scheduling?

15 A No.

16 Q Let me turn your attention to about -- a  
17 couple of weeks later to August 9, 1995. That would  
18 be about three weeks later on a Wednesday, August 9.  
19 Do you recall going up to the residence that day?

20 A Well, I don't specifically recall it but I  
21 do remember, I was out of the country from July 28  
22 through August 8 on a preadvance for the Beijing

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1 trip.

2 Q Can you give me those dates again?

3 A July 28 through August 8, so I'm assuming,  
4 I'm sure -- it is normal for me to meet with  
5 Mrs. Clinton the day after I return from such a trip  
6 to discuss it with her.

7 Q Did Ms. Williams go on the trip, this trip  
8 with you?

9 A Yes, she did.

10 Q Who else went on this preadvance trip with  
11 you?

12 A Neel Lattimore, deputy press secretary.

13 Q Deputy press secretary being Neel  
14 Lattimore?

15 A Right.

16 Q Not a separate person?

17 A Right. Sarah Grote, my deputy, Kelly  
18 Craighead, Mrs. Clinton's trip director, Secret  
19 Service agents, White House communications agents,  
20 and Ralph Frank from the State Department, and David  
21 Morehouse from the advance office, the White House  
22 advance office.

1 Q Do you recall when Mrs. Clinton went to  
2 China?

3 A September 4, I believe.

4 Q So you returned on the 8th?

5 A Yes.

6 Q That it would be a Tuesday?

7 A I don't remember what day of the week.

8 Q So you said you would have reason to meet  
9 with Mrs. Clinton the next day in order to go over  
10 the trip plans?

11 A Right. Typically when I return from a  
12 preadvance like this, I do meet with her the next  
13 day.

14 Q Let me show you now a similar record that  
15 you studied earlier. This one is labeled S 020027,  
16 and that's for Wednesday, August 9, 1995, and ask you  
17 to study the entry that I have highlighted there.

18 (Witness reviewed the document.)

19 Does this -- and let me just read it for  
20 the record. That reflects Patti Solis entering at  
21 1210 and exiting at 1340, which is 1:40 in laymen's  
22 time. Does that refresh your memory as to whether

1 this was the time you entered the residence in order  
2 to discuss with Mrs. Clinton your trip to China and  
3 her plans for her trip?

4 A I don't specifically remember the time, but  
5 I know I did speak with her about the trip upon our  
6 return, or the next day.

7 Q Do you recall who else was at this  
8 meeting? Did everybody who went to China come up for  
9 the meeting?

10 A Yes, actually.

11 MR. COBB: Everybody or --

12 BY MR. DINH:

13 Q Exactly. Let me ask you the questions  
14 first. Do you recall who else was at this meeting?

15 A Yes. Do you want me to tell you?

16 Q Yes, please.

17 A Maggie Williams, myself, Neel Lattimore,  
18 Kelly Craighead and Sarah Grote and Mrs. Clinton.

19 Q Great. Now, just studying the entry right  
20 above the entry I have highlighted for you, that says  
21 Maggie Williams entering at 1210, leaving at 1354 and  
22 the entry below that it says Neel Lattimore, 1210



1 entry, leaving 1340, which is about the same time  
2 that you left. Does that refresh your recollection,  
3 did you enter with Maggie Williams and Neel Lattimore  
4 together when you went up to the residence on this  
5 particular meeting?

6 A I don't remember.

7 Q Do you recall how long approximately this  
8 meeting lasted?

9 A It lasted longer than usual, because --

10 Q There was a lot more to talk about?

11 A There was a lot more to talk about. 45  
12 minutes maybe, an hour. I don't remember.

13 Q You don't recall, okay. Could it have been  
14 an hour and a half?

15 A It could have been. I don't remember.

16 Q Do you recall any discussions at this  
17 meeting about any subject other than China, other  
18 than her trip to China?

19 A Well, we also went to Cambodia, Thailand  
20 and Mongolia, so we talked about that, but nothing  
21 else.

22 Q Other than her trip to Asia?

---

1 A No.

2 Q I take it you did not talk about her weekly  
3 or daily schedule at this meeting, this was just  
4 strictly for the purpose of her trip schedule?

5 A I don't remember but since I had been gone  
6 for so long and jet-lagged I'm sure we didn't because  
7 I didn't know what was going on.

8 Q Who takes over your duties as scheduler  
9 when you're on such an extended trip?

10 A It depends on -- usually on a trip like  
11 this, I take one of my assistants with me. On this  
12 one I took Sarah Grote, so I don't remember but I'm  
13 sure -- it was likely that probably Julie Hopper.

14 Q Who is another assistant of yours?

15 A She is no longer. She quit about -- in  
16 August, in August of '95.

17 Q In August of 1995. At the end of August of  
18 1995 or at the beginning?

19 A At the end.

20 Q So she would have been at the White House  
21 at this time, that is --

22 A Yes.

1 Q August 9, 1995?

2 A Yes.

3 MR. COBB: Are we done with this one,  
4 Exhibit 1?

5 MR. DINH: We'll just leave that there for  
6 a bit.

7 BY MR. DINH:

8 Q Let me direct your attention now to the  
9 very next day, which is the Thursday after the  
10 Wednesday that you came back from your trip, and let  
11 me ask you whether you recall entering the residence  
12 then, perhaps for a scheduling meeting of some sort.

13 A I don't --

14 MR. KRAVITZ: We're talking about August  
15 10?

16 BY MR. DINH:

17 Q August 10, 1995, yes.

18 A I don't specifically remember.

19 Q Let me direct your attention to S 020026,  
20 and again that's what they call an F1 movement log,  
21 which is the formal technical name for these logs at  
22 the ground floor maintained by the Secret Service.

1 Let me ask you to study the entry that I have  
2 highlighted.

3 (Witness reviewed the document.)

4 That reads this time with an I, Patti  
5 Solis, entry at 1438, exit at 1505, again entries and  
6 exit into the White House residence here marked on  
7 the log as up and down. If you study the entry below  
8 that, it also says Maggie Williams for the same entry  
9 and exit time.

10 Does that refresh your recollection of that  
11 particular entry?

12 A I don't specifically remember being up  
13 there, but it sure makes sense that we were up there  
14 for a scheduling meeting.

15 Q Because it approximately falls within the  
16 time frame that you thought -- you testified to  
17 earlier as to how long these meetings last?

18 A Yes.

19 Q Because you enter at 2:40, exited at 3:05,  
20 so approximately half an hour, or 20 minutes?

21 MR. COBB: Or exactly 27 minutes.

22 MR. KRAVITZ: And it's also at

1 approximately the right time of day?

2 THE WITNESS: Yes.

3 BY MR. DINH:

4 Q Let me ask you this. Are your scheduling  
5 meetings devoted solely for the purpose of  
6 scheduling?

7 A Yes.

8 Q Do you recall at any time since January 20,  
9 1993 since you've taken over this job, do you recall  
10 at any time any specific discussion of matters that  
11 are not related to scheduling at these daily  
12 meetings?

13 A Well, you know, we're all friends and I was  
14 getting engaged at the time so we talked a lot about  
15 the wedding.

16 Q Congratulations, by the way.

17 A Thank you.

18 Q And so some personal discussions?

19 A Uh-huh, yes.

20 Q Do you recall whether Ms. Williams and  
21 Mrs. Clinton would discuss other business besides  
22 scheduling at these scheduling meetings?

1 A No.

2 Q Not any specific recollection? Did they  
3 ever that you just don't recall or would it have been  
4 consistent with these meetings?

5 A It's my recollection that when the three of  
6 us were together we talked about scheduling.

7 Q You talked only about scheduling, okay.

8 A Uh-huh.

9 Q Aside from the small talk?

10 A Aside from the small talk.

11 Q Not small talk. Very large personal talk  
12 but not business-related talk.

13 A Right.

14 Q Let me direct your attention now to the  
15 Monday of the following week, and that is August 14,  
16 1995, the day -- I believe the day before  
17 Mrs. Clinton left on her trip to Wyoming, just to fix  
18 it in your mind.

19 Incidentally, did you go with Mrs. Clinton  
20 to her trip in Wyoming?

21 A No.

22 Q But did you stay at work or did you also go

1 on vacation?

2 A I went on -- I stayed at work for a time  
3 and then took some vacation time.

4 Q When did you take your vacation? When did  
5 you leave?

6 A I don't recall the dates but sometime that  
7 next week, and I took six days.

8 Q So let me direct your attention back to  
9 Monday the 14th of August, 1995. That is the day  
10 before Mrs. Clinton left for her trip to Wyoming.  
11 Let me ask you to study again a record labeled  
12 S 020325, and for your convenience I have highlighted  
13 an entry which I would like you to focus on. That  
14 says Patti Solis entry at 1640, exit at 1840.

15 MR. COBB: I think it says 1641.

16 BY MR. DINH:

17 Q I'm sorry, 1641. And exit at 1840, so  
18 that's approximately at 4:41 and exit at 6:41. Do  
19 you recall this particular entry?

20 A Not specifically, but I'm looking at all  
21 the other names, and it looks like this was one of  
22 the weekly scheduling meetings.

1 Q Can you tell me what other names on that  
2 list that you think that led you to that conclusion?

3 A Ann Stock, Lisa Caputo, Maggie Williams,  
4 Melanne Revere, myself.

5 Q And this is consistent with your earlier  
6 testimony as to the individuals, other individuals  
7 who would attend a weekly scheduling meeting?

8 A Yes.

9 Q How long would these scheduling meetings  
10 approximately last in a normal course?

11 A Well, I typically schedule them for two  
12 hours, but again they can run longer or run shorter.

13 Q As a matter of fact, this particular entry  
14 lasted exactly two hours; correct?

15 A On account of good scheduling, yes.

16 Q Incidentally, do you direct these meetings?

17 A I run them, yes.

18 Q You run them. Again, do you recall at any  
19 time since January 20, 1993 that there were  
20 discussions during these meetings of things other  
21 than related to scheduling?

22 A Again, we've all worked together a long



1 time and friends, personal things would come up.

2 Q Personal things would come up, as in the  
3 normal course of a meeting of friends?

4 A Uh-huh.

5 Q Besides the personal things, did you  
6 discuss other business at these meetings other than  
7 related to scheduling?

8 MR. KRAVITZ: You should initially answer  
9 that question yes or no because if the answer is yes  
10 it may not be within the scope of our investigation.

11 THE WITNESS: Yes, at times.

12 BY MR. DINH:

13 Q Other business would be discussed at these  
14 scheduling -- weekly scheduling meetings?

15 A At times.

16 Q Do you recall at this particular meeting,  
17 what you've testified as consistent with a weekly  
18 scheduling meeting, that is on the Monday, August 14,  
19 1995, the meeting is the meeting for the week before  
20 Mrs. Clinton left for her vacation in Wyoming, do you  
21 recall if there was any discussion of anything other  
22 than scheduling?

1 A I don't specifically recall, no.

2 Q Do you recall the meeting?

3 A Specifically, no.

4 Q You said you would run the meeting. Do you  
5 have an agenda?

6 A Yes.

7 Q Does this agenda relate only to scheduling?

8 A Yes.

9 Q So any other business-related discussions  
10 would be incidental to the formal agenda of the  
11 meeting?

12 A Well, let me explain. It's really the only  
13 formal meeting where Mrs. Clinton gets together with  
14 her senior staff at one time, so if she has anything  
15 she needs to sort of dole out in terms of duties, she  
16 does so, and the same with the staff with her.

17 Q Now, focusing on the period between July  
18 and August, the period of July and August of 1995, do  
19 you recall at any time either in the daily scheduling  
20 meetings or in the weekly scheduling meetings, do you  
21 recall any discussions of Whitewater Development  
22 Corporation?

1 A Not that -- no, not specifically, I don't  
2 recall it.

3 Q Any discussions -- do you recall any  
4 discussions of Madison Guaranty Savings & Loan  
5 Association, or Madison?

6 A No.

7 Q Of Jim McDougal?

8 A No.

9 Q Susan McDougal?

10 A No.

11 Q Seth Ward?

12 A No.

13 Q Alston Jennings?

14 A No. First time I've ever heard that name.

15 Q Do you recall any discussions of the Rose  
16 Law Firm generally?

17 MR. KRAVITZ: Are we still talking about  
18 these scheduling meetings?

19 BY MR. DINH:

20 Q During these scheduling meetings, the daily  
21 and weekly scheduling meetings.

22 MR. COBB: And the period July and August

1 15 of 1995?

2 MR. DINH: Yes.

3 THE WITNESS: Not specifically, no.

4 BY MR. DINH:

5 Q How about more specifically, any  
6 discussions of any billing records of the Rose Law  
7 Firm, again during these daily or weekly scheduling  
8 meetings?

9 A No.

10 Q In July and August of 1995?

11 A No.

12 Q Have you ever had any discussions ever with  
13 Mrs. Clinton relating to Whitewater Development  
14 Corporation?

15 A I remember the only really specific  
16 conversation was when the billing records were found  
17 and she was going on a book tour the next week and  
18 just basically we talked about what bad timing this  
19 is because no one is going to want to hear about the  
20 book, they're going to want to hear about this, but  
21 nothing else.

22 Q Now, was this in the context of a

1 scheduling meeting also?

2 A Yes.

3 Q Was that a passing observation or did you  
4 change the schedule substantively in response to that  
5 observation?

6 A Are you asking if I changed the schedule  
7 because the billing records were found?

8 Q Yes.

9 A No.

10 Q You just -- somebody made the observation  
11 that this is just bad timing?

12 A Right.

13 Q Did you make that observation?

14 A I don't remember. I might have. I have  
15 made that observation when the billing records were  
16 found.

17 Q When you say when the billing records were  
18 found, what time period are you talking about?

19 A I mean I found out about it on the news,  
20 whatever day.

21 Q In early January of 1996, early January of  
22 this year?

1 A Yeah, I believe so.

2 Q And you said you found out about it on the  
3 news?

4 A Uh-huh, yes.

5 Q Other than this discussion with  
6 Mrs. Clinton in the scheduling meeting, did you have  
7 any other discussions with anyone in the White House  
8 regarding the Rose Law Firm billing records after  
9 they were found?

10 A Sure, but the same observations, what bad  
11 timing, she's going on a book tour.

12 Q Did you have any discussions regarding the  
13 circumstances under which they were found?

14 A No.

15 Q Let me direct your attention now to a sheaf  
16 of documents that are labeled DKS~~N~~ 28928 through DKS~~N~~  
17 29043 and let me describe them briefly for the  
18 record. They are a stack of photocopies, some in  
19 black and white and some in color, that is  
20 approximately 11 by 17 in size and approximately an  
21 inch in thickness, and let me hand those to you and  
22 ask you to take a look at them.

1 (Witness reviewed the document.)

2 Have you ever seen these records before?

3 A No.

4 Q Have you ever seen any records that  
5 resemble something like this, that is by resembling,  
6 I say measuring 11 by 17 approximately 1 inch in  
7 thickness?

8 A Only on C-SPAN.

9 Q I'm glad to hear somebody is watching  
10 C-SPAN. They all tune in to watch Mr. Kravitz.

11 MR. KRAVITZ: That's what we hear.

12 MR. COBB: That's what the polls show.

13 (Laughter.)

14 BY MR. DINH:

15 Q And then let me -- I know you answered it  
16 in general, and let me just be very thorough and ask  
17 you in specific, have you ever seen these records,  
18 the ones I've shown to you and you've studied, in the  
19 White House?

20 A No.

21 Q Have you ever seen them in the White House  
22 residence?

1 A No.

2 Q You've never seen them, anybody carrying  
3 them in the White House or in the White House  
4 residence?

5 A No.

6 Q You've never seen them lying on a table  
7 somewhere or on a bookshelf or something like that in  
8 the White House or White House residence?

9 A No.

10 Q Other than the discussions that you have  
11 told me about earlier regarding the observation of  
12 what poor timing this was with Mrs. Clinton and some  
13 other office conversations after the discovery of the  
14 Rose Law Firm billing records, have you overheard any  
15 discussions about the Rose billing law -- Rose Law  
16 Firm billing records in the White House?

17 A No.

18 Q Do you know who Mary Ann Delarives is,  
19 D-e-l-a-r-i-v-e-s?

20 A No.

21 Q Do you know who James Fuller is?

22 A Yes.



1 Q Who is he?

2 A He's an attorney, I don't know the name, he  
3 works with Bob Barnett.

4 Q At Williams & Connolly?

5 A Yes.

6 Q Is he Mr. Barnett's assistant, do you know?

7 A I don't know. He handles tax issues for  
8 Mrs. Clinton.

9 Q Do you know who Steven Gordon is?

10 A No.

11 Q Do you know who Pat Griffin?

12 A Yes.

13 Q Who is Pat Griffin?

14 A He's an assistant to the President for  
15 legislative affairs at the White House, but I think  
16 his last day was last week, actually.

17 Q Was last week?

18 MR. KRAVITZ: I think he works in the  
19 Senate now.

20 BY MR. DINH:

21 Q Do you know who Bill Knapp is?

22 A No.

1 Q Do you know who Ian McWilliams is?

2 A No.

3 Q Do you know who Tom Oaks, O-a-k-s, is?

4 A No.

5 Q Do you know who Mark Paris is?

6 A No.

7 Q Do you know who Lisa Perez is?

8 A No.

9 Q Do you know who Billy Perry is, or William  
10 Perry or Bill Perry, P-e-r --

11 A Secretary Perry?

12 Q Is that the only William Perry you know?

13 A Yes.

14 Q Do you know a Billy Perry?

15 A No.

16 Q Other than Secretary Perry?

17 A No.

18 Q Have you ever heard anybody describe --  
19 refer to Secretary Perry as Billy Perry?

20 MR. COBB: Just you two seconds ago.

21 THE WITNESS: Yes.

22 BY MR. DINH:

1 Q Other than me two seconds ago?

2 A Yes.

3 Q Just so the record is clear, I was not  
4 referring in specific to Secretary Perry when I was  
5 asking that question.

6 MR. COBB: His parents may have called him  
7 that, though.

8 MR. DINH: Off the record.

9 (Discussion off the record.)

10 BY MR. DINH:

11 Q Back on the record.

12 Do you know who April Springfield is?

13 A Yes.

14 Q Who is April Springfield?

15 A She's an intern in the social office, I  
16 believe.

17 Q Is she still an intern right now?

18 A I'm not sure. I haven't seen her around  
19 lately. I'm not sure.

20 Q The social office of the White House?

21 A Yes.

22 Q Does the First Lady have her own social

1 office?

2 A The social office of the White House is in  
3 the East Wing.

4 Q No, but I mean like is there a formal  
5 office like the social office for the First Lady or  
6 does the White House social office handle both the  
7 First Lady and for the President?

8 A The White House social office handles it  
9 for both, the President and the First Lady.

10 Q Do you know who Sheila Martinstone is?

11 A No.

12 Q Do you know who Ellen Torika is,  
13 T-o-r-i-k-a?

14 A No.

15 Q When you are compiling the private schedule  
16 for the First Lady, does that include everything that  
17 she does in a day, and by that, I mean like does it  
18 include everything she does from waking up to going  
19 to bed?

20 A No.

21 Q It does not?

22 A No. The schedule is basically reflecting

1 what should happen that day. If things get canceled  
2 it's not reflected on the schedule, or if she, you  
3 know, she has phone and office time or downtime, I  
4 don't know what she does during that time.

5 Q Do you take that into account, do you put  
6 phone or office time into the schedule?

7 A Yes, when the schedule allows for it.

8 Q Do you include like other things on the  
9 schedule, like exercise time?

10 A Well, I used to try to, to try to get her  
11 regimen of working out, but it didn't work so I don't  
12 do that anymore.

13 Q And when you used to do it, how often would  
14 you schedule the exercise time? And by "often," I  
15 mean on a weekly basis, how many days a week or  
16 something like that?

17 MR. KRAVITZ: Why don't --

18 THE WITNESS: I just --

19 MR. KRAVITZ: Why don't we limit this. Can  
20 we limit this to a relevant time period, like in  
21 1995? I mean at a certain point it really becomes  
22 kind of intrusive in the First Lady's privacy, unless

1 it's directly relevant to something having to do with  
2 the book room, which I assume is what you're aiming  
3 at.

4 MR. DINH: I would like to get the general  
5 practice first before I start focusing down.

6 BY MR. DINH:

7 Q Can you answer the question, please?

8 A I would just allot an hour of private time.

9 Q Of private time. An hour a week or an hour  
10 a day?

11 A An hour a day.

12 Q When did you stop scheduling exercise time?

13 A I can't really focus on the time period but  
14 it was a very small period of time, about a month or  
15 so, and then stopped, I stopped doing it.

16 Q Did you schedule any such time in July and  
17 August of 1995?

18 A No.

19 MR. COBB: Off the record.

20 (Discussion off the record.)

21 BY MR. DINH:

22 Q Actually I am looking over my note and

1 indeed I missed one particular line of questioning,  
2 back toward the beginning of the deposition. I would  
3 like to refocus your attention to it. That is the  
4 July 20 through July 27, 1993 time period. And you  
5 testified earlier that Mrs. Clinton was on a trip at  
6 this time.

7 A Uh-huh.

8 Q Do you recall where her trip took her?

9 MR. KRAVITZ: I think her testimony was  
10 that Mrs. Clinton was on a trip for part of that  
11 time.

12 MR. DINH: Right.

13 MR. COBB: Right. I think that the  
14 testimony was that I think at the early end of the  
15 program that she was in Little Rock. I don't think  
16 there was a discussion beyond that.

17 BY MR. DINH:

18 Q Right. She was in Little Rock at the time,  
19 correct, in July -- let's say July 20, 1993, was she  
20 in Little Rock at the time?

21 A Yes.

22 Q Was she on a trip, an official trip that

1 you were aware of?

2 A Yes, it was a long trip, it was the G-7 to  
3 Seoul, Korea and Japan with the President, and then  
4 she went to California I believe and then from there  
5 to -- no, to Hawaii, California, Arkansas.

6 Q Were all of these stops, that is Hawaii,  
7 Los Angeles and Little Rock, scheduled in her  
8 original trip schedule, if you can recall?

9 A Yes.

10 Q Do you recall how long was her scheduled  
11 stay in Los Angeles?

12 A I think a couple of days.

13 Q And her stopover in Little Rock was also  
14 planned?

15 A Yes.

16 Q And do you recall if that plan, that is,  
17 the duration of time that she was to stay in Little  
18 Rock, changed in light of the schedule for  
19 Mr. Foster's funeral?

20 A Yes, I believe so. I believe she stayed  
21 there for the funeral and then came home.

22 Q And then came home?



1       A    I don't remember if she was originally  
2 scheduled to stay in Little Rock that long, but I  
3 know she stayed for the funeral.

4       Q    Okay. Do you recall with respect to the  
5 dates now, do you recall if she was originally  
6 scheduled to be -- to land in Little Rock on July 20,  
7 1993?

8           MR. COBB: I think the only concern I have  
9 about this line of questioning, Viet, is I think  
10 there must be records that sort of specifically  
11 itemize this, and they have got to be the best source  
12 of information on this as opposed to her recollection  
13 2-1/2 years after the events. I think generally she  
14 can talk about it, but in order to establish pure  
15 accuracy, I think it would probably be best to work  
16 with those records if you have them. I'm not  
17 directing her not to answer, but I just want you to  
18 understand that I think there's probably a better  
19 source.

20          MR. DINH: Right, I understand that, and I  
21 understand the limitations to a witness's  
22 recollection. Thank you for making that officially

---

1 on the record, because that is a good reminder.

2           BY MR. DINH:

3       Q    Do you recall whether July 20 was the  
4 original date that she was scheduled to land in  
5 Little Rock?

6       A    I believe so.

7       Q    Now, I asked you this question with respect  
8 to her daily schedules, you know, her private and her  
9 public schedule. What about her trip schedules? Do  
10 you keep copies of those trip schedules?

11      A    Yes, I do.

12      Q    Are these separate from her two sets of the  
13 daily schedules, the private and the public  
14 schedules?

15      A    No.

16      Q    When you have a long trip like that or even  
17 a short one, do you make a specific schedule just for  
18 the trip?

19      A    When there's not a long trip but a foreign  
20 trip, which it was added onto a foreign trip, we have  
21 what we call a trip book for it which is a bound book  
22 of the foreign trip, just a book of the schedules and

1 site diagrams and manifests and stuff like that.

2 Q And do you retain a copy of that trip book?

3 A Yes.

4 Q Do you have such a trip book for her trip  
5 to the G-7 summit in Seoul, Korea?

6 A Yes.

7 Q And would this include her daily schedule  
8 for every day on the trip?

9 A Yes.

10 Q Does it include her private schedule for  
11 every day on the trip?

12 A Travel schedules, there's -- it's only  
13 one. It's a public schedule, it's a public and  
14 private schedule. Everything is on it because it's  
15 open -- it's public.

16 Q You stated earlier that you do not make up  
17 a private schedule for when she's away on a trip?

18 A Right.

19 Q And this trip book would contain all the  
20 information that you have with respect to the  
21 particular trip. Do you leave any information out  
22 that you have with respect to that trip?

1 A The book consists of her schedule, site  
2 diagrams, manifests.

3 Q You said that sometimes the schedules are  
4 not adhered to.

5 A Yes.

6 Q When they are deviated from, do you make  
7 notations on your copy of the schedules?

8 A Sometimes I don't know about the deviations  
9 or if anything gets canceled.

10 Q The deviations that you know of, that you  
11 come to learn of.

12 MR. COBB: Let me just see if I can clarify  
13 this, the deviations that she learns of, there may be  
14 no distinction, but deviations she learns of after  
15 the fact, does she go back and modify the schedule?

16 BY MR. DINH:

17 Q Exactly, after the fact.

18 A Sometimes. I mean if they're major  
19 deviations that I learn about, like something didn't  
20 happen or she didn't go somewhere, yes, but if she's  
21 10 minutes late or, you know, no.

22 Q And when you make -- when you make these

1 corrections, as it were, to account for the  
2 deviations you learn of after the fact, do you make  
3 note of the original intended schedule and then  
4 whatever the deviation is or do you amend the  
5 original schedule?

6 MR. COBB: If you have a common practice.

7 THE WITNESS: The common practice is we  
8 amend the original schedule and it will reflect final  
9 schedule revised.

10 BY MR. DINH:

11 Q Do you keep a copy of the final schedule  
12 unrevised?

13 A No.

14 Q So when I get a sheet that says, just says  
15 "final schedule," is it correct that no revisions  
16 have been made to that to reflect any deviations that  
17 you learn of after the fact?

18 A That's right.

19 Q And you make such revisions with respect  
20 both to the private schedule and to the public  
21 schedule?

22 A Yes.

1 Q And the same notations, final schedule  
2 revised for both the private schedule and the public  
3 schedule?

4 A Yes.

5 Q And I take it that is the designation, it  
6 says "private final schedule" or "public final  
7 schedule" in each of these schedules?

8 A No, it doesn't say private or public.

9 Q But just the private would probably reflect  
10 more times and more events on there than the public  
11 schedule, if there is any differences.

12 A The private schedule reflects, you know,  
13 maybe more lists of participants and meetings,  
14 private meetings, or you know, her personal things,  
15 like her hair being done or doctor's appointments.

16 Q Do you keep a trip log or do you know if  
17 anyone in the White House keeps a log for the trip?

18 A What do you mean by a log?

19 Q Like a memorandum of things that happen  
20 during the trip. Is that -- if you know.

21 A Not that I know of, no.

22 Q With respect to Mrs. Clinton's schedule on

1 July 20, July 21 and July 22 of 1993, those are the  
2 day of and the two days subsequent to Mr. Foster's  
3 death, do you specifically recall making any  
4 revisions to reflect any modifications that you  
5 learned of after the fact to her schedule?

6 A No, I don't recall.

7 Q Do you remember if she kept her appointment  
8 for the event at the children's hospital?

9 A Yes, she did.

10 Q You did not change that after your  
11 conversation with Maggie Williams?

12 A No, I didn't.

13 MR. DINH: I have nothing further. Thank  
14 you.

15 MR. KRAVITZ: I actually have a few minutes  
16 of questioning. Why don't we take a five-minute  
17 break.

18 (Recess.)

19 EXAMINATION

20 BY MR. KRAVITZ:

21 Q Ms. Solis, I actually have just a few  
22 minutes of questions. Near the beginning of your

1 deposition you gave us three different telephone  
2 numbers. One was 456-7560, which you identified as a  
3 general number. What's that a general number for?

4 A That's the general number for the  
5 scheduling and advance office of the White House.

6 Q So not specifically for the First Lady but  
7 for the White House scheduling and advance?

8 A Right.

9 Q Then you gave us 456-2468, which you  
10 identified as your direct line?

11 A Yes.

12 Q And the number 456-5318, which was the  
13 general number for --

14 A First Lady's scheduling.

15 Q Is that different than the general number  
16 for the Office of the First Lady?

17 A Yes.

18 Q What's that number?

19 A 456-6266.

20 Q Now, are these four numbers -- these are  
21 currently the numbers for those four different  
22 entities that you've identified?



1 A Yes.

2 Q Were these same four numbers in use for the  
3 same purposes back in 1993?

4 A The 2468 number definitely.

5 Q 2468 was your direct line?

6 A Mine, yes. The 6266 number definitely. I  
7 am not sure about the 5318. That was put in I don't  
8 know how long ago but fairly recently, maybe a year  
9 or so ago, and the 7560, I'm not sure, I don't know  
10 when they installed that number.

11 Q Okay. So 456-5318, which is the general  
12 number for the First Lady's scheduling, would not  
13 have been in use for that purpose back in the summer  
14 of 1993; is that correct?

15 A Yes.

16 Q When you get a call in your office, in your  
17 personal office, are you able to tell which line the  
18 call came in on?

19 A We have caller ID on our phones, which is  
20 also recent, so yes, my 2468 number lights up but it  
21 could have come from the general number, someone  
22 transferring from the general number, or could have

1 come directly.

2 Q Back in July of 1993, did you have this  
3 Caller ID feature on your telephone?

4 A No.

5 Q So were you -- in July of 1993, if you got  
6 a telephone call in your personal office, were you  
7 able to tell what number the person calling you had  
8 dialed before that person got to your telephone?

9 A No.

10 Q You testified that you spoke often with  
11 Susan Thomases back in 1993. Do you know whether as  
12 a general practice Ms. Thomases called you on your  
13 direct personal telephone line or whether she called  
14 you -- or called the main office for the Office of  
15 the First Lady and was transferred to you?

16 A I don't know. She has my number. I don't  
17 know.

18 Q She has your direct number?

19 A Yes, but --

20 Q But you don't know whether she calls that  
21 or whether she gets you through the number for the  
22 Office of the First Lady?

1 A Uh-huh, I don't know.

2 Q How many other people -- strike that.

3 In the time period of the summer of 1993,  
4 how many people working within the Office of the  
5 First Lady other than you, to your knowledge, spoke  
6 with Ms. Thomases?

7 A Oh, lots of people. As I said, you know,  
8 most of Mrs. Clinton's staff worked on the campaign,  
9 Susan worked on the campaign, so I'm sure she called  
10 a lot of people. I don't know specifically who she  
11 talked to and who she didn't talk to.

12 Q But it's fair to say that you and  
13 Ms. Williams, Maggie Williams, were not the only two  
14 people working in the Office of the First Lady in  
15 July 1993 with whom Susan Thomases spoke on the  
16 telephone?

17 A Oh, no, I mean there were a lot of people  
18 she spoke with.

19 Q And so if phone records show that  
20 Ms. Thomases placed a call to the main number for the  
21 Office of the First Lady in July 1993, is there --  
22 should the Committee conclude that Ms. Thomases

1 definitely spoke with Maggie Williams at the time  
2 that those phone records indicate that there was a  
3 call from Ms. Thomases to the office, the general  
4 number of the Office of the First Lady?

5 MR. DINH: That was a should, did you say,  
6 should the Committee conclude?

7 MR. KRAVITZ: Yes.

8 MR. DINH: Or could it conclude?

9 MR. KRAVITZ: The question -- let me  
10 rephrase the question.

11 BY MR. KRAVITZ:

12 Q If phone records indicate that Susan  
13 Thomases called the general number for the Office of  
14 the First Lady in July 1993, should the Committee  
15 conclude that that necessarily means that Susan  
16 Thomases spoke with Maggie Williams at that time?

17 A No. The 6266 number is also the number I  
18 call to speak to anyone. I mean that 6266 number  
19 houses Lisa Caputo, the press secretary, everybody in  
20 the press office, the Deputy Chief of Staff,  
21 everybody in that office, Maggie Williams, everyone  
22 in the outer office. I mean the 6266 number will

1 connect you to anybody in the First Lady's office.

2 MR. KRAVITZ: Thanks. That's all I have.

3 EXAMINATION

4 BY MR. DINH:

5 Q I just have a couple of more questions for  
6 you and then we can end this and have some lunch.

7 A Great.

8 Q And specifically they deal with -- they  
9 deal again with the time period between July 24, 1993  
10 through July 27, 1993. As you recall, July 24 I  
11 represented to you earlier is the Saturday after  
12 Mr. Foster's death. I take it Ms. Thomases has your  
13 home phone number?

14 A Yes.

15 Q Does she often call you at home?

16 A Again, I'm having trouble with "often," but  
17 she calls me at home.

18 Q She calls you at home?

19 A Yes.

20 Q Does she call you at home, say, once a  
21 month or twice a month?

22 A Maybe, that's about right.

---

100

1 Q But you testified earlier that you had no  
2 specific recollection of a call to you from  
3 Ms. Thomases on July 24, 1993?

4 A No.

5 Q Now, I showed you earlier, and let me show  
6 you again, a document labeled ST 00126. Do you  
7 recall this document?

8 A Yes.

9 Q It's the message that says Patti Solis  
10 called Susan Thomases and the message is "HRC wants  
11 to see you today."

12 MR. KRAVITZ: This is July 27, 1993.

13 BY MR. DINH:

14 Q I'm sorry, July 27, 1993. Thank you,  
15 Mr. Kravitz.

16 And you said you did not recall seeing  
17 this? I'm sorry --

18 MR. COBB: She wouldn't have had any reason  
19 to see it.

20 BY MR. DINH:

21 Q I'm sorry. You did not recall placing this  
22 call?

1 A No, I don't.

2 Q And do you recall receiving a return call  
3 to you to schedule such a --

4 MR. KRAVITZ: Viet, do you have a new angle  
5 on this? I think we've gone through this already.

6 BY MR. DINH:

7 Q And you said that you did not recall a call  
8 back to you to schedule this?

9 A No, I don't recall it.

10 Q Let me focus your attention even a little  
11 bit more focused because there is no time on that.  
12 As you can see, there is no time recorded on that  
13 particular message slip. Do you recall placing this  
14 call sometime in the morning of July 27, 1993?

15 A No, I don't recall it.

16 Q Do you recall receiving a phone call back  
17 from Ms. Thomases' office right before lunch, and by  
18 right before lunch, I would say approximately 11:30  
19 on July 27?

20 MR. COBB: I think the difficulty here,  
21 Viet, is that what she said is she doesn't have an  
22 independent recollection of a return call at all.

---

1 You know, if --

2 MR. DINH: I'm trying to focus her  
3 attention a little bit more to the time period and by  
4 referring to her to before lunch, I'm trying to focus  
5 your attention.

6 BY MR. DINH:

7 Q Again, I'm not playing "gotcha" here with  
8 you. I'm trying to focus your attention so that  
9 hopefully we can refresh your memory a little bit  
10 more.

11 MR. COBB: And I respect that. I just want  
12 to make clear that's what's going on. She's answered  
13 the question several times to the effect that she  
14 doesn't have an independent recollection of these  
15 calls. If they were made, that's a distinct  
16 possibility, but that she doesn't specifically recall  
17 them.

18 BY MR. DINH:

19 Q Certainly. I'm just trying to probe your  
20 recollection.

21 Do you recall receiving a phone call from  
22 Ms. Thomases' office before lunch on that day?



1 A No, I don't.

2 Q Let me show you now what is labeled ST  
3 123. Let me represent to you that that is what has  
4 been produced to us by Ms. Thomases as reflecting  
5 certain telephone records from her office here in  
6 Washington, D.C. And the phone call was made to  
7 456-2468. This is the phone call that I have  
8 highlighted on the particular document, and the time  
9 that it reflects, the date of course is 7-27 and the  
10 time is 11:33. And the duration was approximately a  
11 minute and 12 seconds, or actually exactly a minute  
12 and 12 seconds, may be approximately without  
13 nanoseconds, but does seeing that specific record  
14 refresh your memory at all with respect to this  
15 particular --

16 MR. COBB: Can you represent to me, I mean  
17 just because it's not clear. I'm sure that you guys  
18 have checked this out, but is this 2468? Because the  
19 8 is not clearly legible.

20 MR. DINH: Yes. Let me represent to you  
21 that it is 2468.

22 THE WITNESS: I don't recall it.

---

1 BY MR. DINH:

2 Q 456-2468 is your direct line; correct?

3 A Correct.

4 Q And you testified earlier that is your  
5 sole -- you are the only person with access to that  
6 line?

7 A Yes, but you know, sometimes there are  
8 people in my office and they will pick up my phone  
9 for me.

10 Q Right. But if I were to dial 2468, I would  
11 dial that expecting to get you?

12 A Yes.

13 Q But somebody else, of course your secretary  
14 could certainly pick up your line when you're not  
15 there?

16 A Yes.

17 Q Now let me focus your attention now on a  
18 hypothetical, and I would like to -- I'll tell you  
19 that, I'll give you this hypothetical in order to  
20 learn what is exactly reflected on the First Lady's  
21 schedule for a particular day, okay? When do you  
22 finalize her private schedule for, let's say

1 tomorrow? Do you finalize it today or do you  
2 finalize it tomorrow morning?

3 A We would finalize it the evening before.

4 Q The evening before. And that's what you  
5 print out as the final schedule?

6 A Yes.

7 Q Does that schedule that you finalize on the  
8 evening before, on top of it it has the heading  
9 "final schedule"?

10 A Yes.

11 Q For the relevant day, whatever the date may  
12 be?

13 A Yes.

14 Q Now, if you subsequently make revisions to  
15 that final schedule, it would say "final schedule  
16 revised" as you testified earlier?

17 A Yes.

18 Q So if there are changes to Mrs. Clinton's  
19 schedule, let's say two days -- for a schedule for  
20 two days from now, and you make -- I take it you have  
21 a preliminary idea as to what her schedule is two  
22 days from now?

1 A Oh, yes.

2 Q And if there's anything that changes in  
3 that schedule from now and the evening before two  
4 days from now, that will be reflected in the final  
5 schedule?

6 A Well, let me explain. Of course we have an  
7 idea of what Mrs. Clinton is doing two days from now,  
8 and we have what is called a draft schedule for two  
9 days from now and it continues to stay a draft until  
10 the evening before and then becomes final.

11 Q Becomes a final schedule. And you would  
12 make changes to the draft as they happen?

13 A Uh-huh, yes.

14 Q Do you keep copies of the draft schedule?

15 A No.

16 Q That would make sense, also, Paperwork  
17 Reduction Act.

18 Now, during the day you have this final  
19 schedule. Let's say you have a final schedule for  
20 today, okay?

21 A Yes.

22 Q During the day Mrs. Clinton asks you to

1 schedule a meeting sometime that day with, say, Susan  
2 Thomases, okay? That's the hypothetical that I'm  
3 asking you to consider. How would that be reflected  
4 on the final schedule, if at all?

5 A We would put it on the final revised  
6 schedule.

7 Q You would put it on the final revised  
8 schedule?

9 A If Mrs. Clinton calls me and asks me to  
10 schedule a meeting with anyone for that day, it would  
11 be reflected on the final revised schedule.

12 Q And you would make that revision?

13 A Yes.

14 Q Because you would have firsthand knowledge  
15 that you are revising, of deviation from the final  
16 schedule, as we've talked about earlier?

17 A That's right.

18 Q And when you do have that firsthand  
19 knowledge, you would make out a revised schedule, you  
20 would put out a revised schedule?

21 A Yes.

22 Q Would there be any reason for you not to

1 put out that revised schedule, not to revise it and  
2 just leave a final schedule?

3 A No. Again, if there are major changes, I  
4 would revise it. If she's running 10 minutes late I  
5 wouldn't revise minor changes, no.

6 Q Would a meeting with Susan Thomases be, in  
7 your mind, be a major change?

8 A Any added meeting is a change.

9 Q Is a major change?

10 A Yes.

11 Q That would call for a revision?

12 A That she called me to do, yes, but if I  
13 didn't know about it, I wouldn't change it.

14 Q Of course you wouldn't have any knowledge  
15 and any basis to change it. And so any formal  
16 revisions and any added meetings or any subtracted  
17 meetings or any deleted meetings would be reflected  
18 in a revised final schedule, that you are aware of or  
19 that you personally scheduled or unscheduled?

20 A Yes.

21 Q Just one last question. I would just  
22 remind you that you are still under oath. Do you

1 know who the author of "Primary Colors" is, who goes  
2 by the name of Anonymous?

3 A No, I don't. I wish I did.

4 MR. DINH: I'm surprised Mr. Kravitz did  
5 not yell "out of scope." Thank you very much.

6 (Whereupon, at 12:55 p.m., the deposition  
7 was concluded.)

8

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PATRICIA SOLIS

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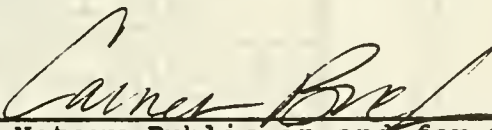
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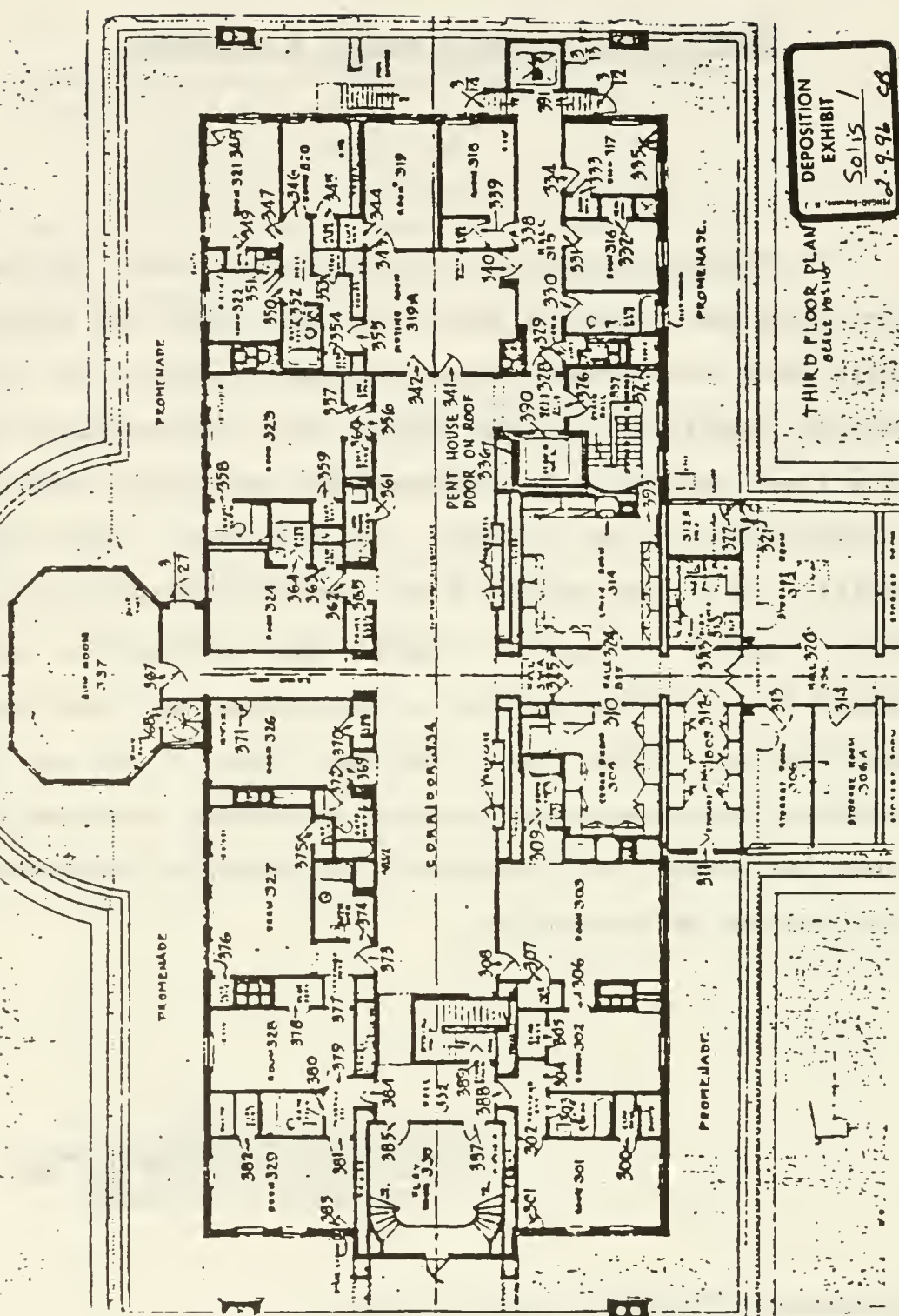


CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires MARCH 14, 1998



THIRD FLOOR PLAN  
SCALE 1/8" = 1'-0"

Solis / 2-9-96

**DEPOSITION OF HELEN DICKEY  
IN RE: S. RES. 120**

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**MONDAY, FEBRUARY 12, 1996**

**U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
Washington, DC.**

Deposition of HELEN DICKEY, called for examination pursuant to notice of deposition, at 1:55 p.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

**VIET D. DINH, Esq.  
Majority Associate Special Counsel  
JAMES S. PORTNOY, Esq.  
Minority Associate Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.**

**JOHN R. TISDALE, Esq.  
Wright, Lindsey & Jennings  
200 West Capitol Avenue  
Suite 2200  
Little Rock, Arkansas 72201-3699  
On behalf of the Deponent.**

**ALSO PRESENT: ROBYN DICKEY**

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EXHIBITS

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Helen Dickey	
DEPOSITION NUMBER	IDENTIFIED
Dickey Exhibit 1 .....	22, 2940
Dickey Exhibit 2 .....	45, 2941



## P R O C E E D I N G S

MR. DINH: Ms. Dickey, as you know, my name is Viet Dinh. I am with the Majority staff and Mr. Jim Portnoy is here and he is with the Minority staff. I understand that Mrs. Robyn Dickey who is your mother, has asked to sit in through the deposition, without objection, Jim.

MR. PORTNOY: We have no objection.

MR. DINH: I have agreed to the presence of Mrs. Robyn Dickey with one proviso which should be implicit but I will make explicit; you must also comply with the confidentiality procedures I will set forth.

Resolution 120 establishes a Special Committee to investigate Whitewater Development Corporation and related matters. The Special Committee is administered by the Senate Banking Committee, and it is authorized to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, and other related matters.

As you may know, the Special Committee has

---

investigated and conducted hearings into a number of subjects. I will be asking you some questions which may be related to those subjects but I want to focus on two particular time periods; that is, July 20 through July 27, 1993, and approximately mid-July to mid-August, in 1995, that is of last year.

Section 1(b)(1) of Resolution 120 authorizes an investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster at the time of his death."

Section 1(b)(3)(A) of Resolution 120 authorizes an investigation and public hearings into "the operations, solvency and regulation of Madison Guaranty Savings & Loan Association, and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association."

Section 1(b)(3)(C) of Resolution 120 authorizes an investigation and public hearings into "the policies, practices" -- "policies and practices

1 of the RTC and the federal banking agencies regarding  
2 the legal representation of such agencies with  
3 respect to Madison Guaranty Savings & Loan  
4 Association."

5 I anticipate that these will be the focus  
6 of today's deposition.

7 The testimony will be taken under oath, and  
8 the stenographer will prepare a record of questions  
9 and answers. This deposition is taken in advance of  
10 public hearings, which are continuing right now.

11 While we have not made a final decision who  
12 will be among the witnesses as to such hearings, I  
13 understand one of my colleagues has been in contact  
14 with your counsel, Mr. Tisdale, and advised him we  
15 have a tentative plans scheduled for Wednesday of  
16 this week, and we will let you know the final  
17 decision as soon as that is reached.

18 MR. TISDALE: Oh, I thought it was final.  
19 He said he was going to subpoena her if we didn't  
20 agree to show.

21 MR. DINH: The transcript -- there will be  
22 a transcript made of today's deposition and that

1 transcript will be treated as Committee confidential  
2 until the commencement of the hearings, if and when  
3 you are called to testify. At that time the  
4 transcript may be made public in whole or in part,  
5 and if you are called at the hearings, we will  
6 provide you with a copy of your transcript as soon as  
7 it is available. The provision of the transcript is  
8 for the limited purpose for your review, and for your  
9 preparation of the testimony in front of any public  
10 hearings. It is not to be disclosed for any other  
11 reason.

12 And Mrs. Dickey, those are the  
13 confidentiality procedures I alluded to earlier.

14 MR. TISDALE: If I can interrupt you, I  
15 presume that I have the opportunity to review the  
16 transcript with her.

17 MR. DINH: Yes, of course, of course. You  
18 may be, of course, represented by counsel. And if  
19 Mr. Tisdale can make an appearance for the record,  
20 that would be great.

21 MR. TISDALE: I am John Tisdale, Little  
22 Rock, Arkansas attorney. I am representing Helen

1 Dickey.

2 MR. DINH: Pursuant to the procedures set  
3 forth in Resolution 120, objections to the form of  
4 the question shall be noted for the record. There  
5 are two grounds upon which counsel may object and  
6 give you instructions not to answer, and those two  
7 grounds are privilege or scope. Your answer to the  
8 question may ask you to divulge some matter that is  
9 privileged, or that the question falls outside the  
10 scope of the resolution.

11 Again, according to Resolution 120, the  
12 Committee Chairman will ultimately rule on objections  
13 where you refuse to answer a question on the advice  
14 of counsel.

15 Would you swear in the witness, please.

16 Whereupon,

17 HELEN DICKEY

18 was called as a witness and, having first been duly  
19 sworn, was examined and testified as follows:

20 MR. TISDALE: May I ask one question of  
21 clarification before you start. With respect to the  
22 scope, did I understand you to say that you were

---

1 relying on 1(b)(3) of the Senate Resolution 120?

2 MR. DINH: Right, 1(b)(3), yes, (A) and  
3 (C).

4 MR. TISDALE: Fine.

5 MR. DINH: And Section 1(b)(1) with respect  
6 to Resolution 120 with respect to handling of records  
7 in Mr. Foster's office after his death.

8 And also, thank you very much for calling  
9 my attention to that, Mr. Tisdale. I don't  
10 anticipate it to be a problem but I am also relying  
11 on 1(b)(3)(D), and that states they authorize an  
12 investigation and hearings into "the handling by the  
13 RTC, the Office of Thrift Supervision, Federal  
14 Deposit Insurance Corporation and the Federal Savings  
15 & Loan Insurance Corporation of civil or  
16 administrative actions against parties regarding  
17 Madison Guaranty Saving & Loan Association."

18 Thank you very much for that  
19 clarification.

20 EXAMINATION

21 BY MR. DINH:

22 Q Ms. Dickey, can you state your name for the

1 record.

2 A My name is Helen Dickey.

3

4

5

6

7

8

9 Q Ms. Dickey, from your -- the notice of your  
10 deposition, have you had any conversations with  
11 anybody besides your immediate family members and  
12 your attorneys about the substance of the subject  
13 matter about which you are about to testify?

14 A My boyfriend.

15 Q And what is his name?

16 A Kevin Stewart, S-t-e-w-a-r-t.

17 Q Is he related to Amy Stewart?

18 A Not that I know of.

19 Q Without telling me what you were asked or  
20 what you said, have you been interviewed or  
21 questioned by any investigative agencies other than  
22 the Senate Banking Committee right now?

---

10

1 A Yes.

2 Q Can you tell me when?

3 A I spoke with two FBI agents on October 31  
4 of 1994, and I spoke to two more in Little Rock last  
5 Wednesday night.

6 Q Last Wednesday would be the 7th?

7 A Yes.

8 Q I only know that so quickly because this  
9 Wednesday is the 14th.

10 MR. PORTNOY: Off the record.

11 (Discussion off the record.)

12 MR. DINH: Back on the record.

13 BY MR. DINH:

14 Q Both of these sets of FBI agents  
15 represented to you that they were working for the  
16 Office of Independent Counsel?

17 A Yes.

18 Q Can you give me a brief history of your  
19 educational background?

20 A I graduated high school in Little Rock, and  
21 went to college at the University of Arkansas in  
22 Fayetteville, graduated in 1992.



1 Q Did you go to work in 1992 after  
2 graduation?

3 A I went to work actually before I graduated.

4 Q For whom did you work for?

5 A For the state of Arkansas.

6 Q In what capacity?

7 A I was the assistant to the governor's  
8 mansion administrator.

9 Q And who was the governor's mansion  
10 administrator?

11 A Ann McCoy. No E.

12 Q And when did you start that job?

13 A December of '91.

14 Q December of 1991. And what did that  
15 position entail, Ms. Dickey?

16 A It entailed general office duties, the  
17 planning and assisting of governor's mansion events.

18 Q And how long were you -- when did you leave  
19 that job?

20 A I left that job in January of 1993.

21 Q Were you subsequently employed after  
22 January of 1993?

1 A Yes.

2 Q By whom?

3 A The White House.

4 Q What was your position there?

5 A I was the staff assistant to the social  
6 secretary.

7 Q And who was the social secretary?

8 A Ann Stock.

9 Q With the E?

10 A No E.

11 Q What did that position entail?

12 A General office duties as well, which  
13 evolved into clearing in all of the guests for all of  
14 the White House events, as well as attending the  
15 parties and making sure that everything went as  
16 planned.

17 Q From January 1993 until when?

18 A I was at that job until October of 1994.

19 Q And subsequent to October 1994?

20 A I moved over -- I was still employed by the  
21 White House, worked as a database administrator on  
22 the White House database.

1 Q To whom did you report to?

2 A Marsha Scott at first, and that changed in  
3 January of 1995 to Jodie Torkelson,  
4 T-o-r-k-e-l-s-o-n.

5 Q That is Ms. Torkelson took over the  
6 position of Ms. Scott in January of 1995, or did you  
7 change jobs?

8 A No, neither.

9 Q Can you explain?

10 A The responsibility was transferred --

11 Q Okay.

12 A -- from Marsha to Jodie.

13 Q The responsibility being database  
14 administration?

15 A Being the person to whom I reported.

16 Q Just the supervisory authority?

17 A Right.

18 Q Are you still presently employed by the  
19 White House?

20 A No, I am not.

21 Q When did you leave the White House?

22 A In August of 1995.

1 Q August when, do you know?

2 A I think my last day was the 17th.

3 Q Just to be sure, did I skip any steps  
4 between January of 1995 and August 17 of 1995?

5 A No.

6 Q You were still working on database  
7 administration reporting to Jodie Torkelson?

8 A That's right.

9 Q Were you during this relevant period, that  
10 is from December 1991 through August 17, 1995,  
11 employed by the Clintons in their personal capacity,  
12 in addition to your official job position at the  
13 White House?

14 A I did personal things for them. I was not  
15 employed by them personally.

16 Q Okay. Just to close out the loop, since  
17 August 17, 1995, have you moved back to Little Rock,  
18 I take it?

19 A I have.

20 Q Have you been employed there?

21 A I have, by Clinton/Gore Primary Committee,  
22 Clinton/Gore '96.

1 Q You have been in that position since August  
2 17, 1995 to the present?

3 A Since September 5th.

4 Q Okay. And what is your position there?

5 A Deputy director of correspondence.

6 Q Let me go back now to the top of the list  
7 and refer you back to your job in the Arkansas  
8 governor's mansion. I take it at the time President  
9 Clinton was then governor?

10 A He was.

11 Q Did your job as assistant to the mansion  
12 administrator entail any recordkeeping?

13 A No, it did not.

14 Q Did you -- did it entail the handling of  
15 any records?

16 A I did a lot of filing.

17 Q You did a lot of filing.

18 Would the directions for your filing  
19 assignments come directly from the mansion  
20 administrator, Ms. McCoy?

21 A Yes.

22 Q Did anybody else give you directions as to

1 what to file?

2 A No.

3 Q Did anybody else give you records in order  
4 to file?

5 A No.

6 Q So everything, records and directions came  
7 from Ms. McCoy?

8 A That's right.

9 Q What sort of records were you asked to  
10 file, if you can describe them in general terms?

11 A I don't remember.

12 Q Were you filing letters?

13 A I filed memos, receipts.

14 Q Receipts for the White House -- I mean, for  
15 the governor's mansion expenditures?

16 A Yes.

17 Q Or did you file any receipts for the  
18 Clintons' personal expenditures?

19 A Not that I remember.

20 Q Okay, I'm sorry. You can go on with your  
21 list. Memos, receipts?

22 A I don't recall anything else.

1 Q Okay. These would be internal memoranda  
2 that you were filing?

3 A Yes.

4 Q Internal to the governor's mansion or  
5 internal to the Arkansas state government?

6 A To the governor's mansion.

7 Q To the governor's mansion.

8 Were you asked to handle outside  
9 correspondence at all, from the governor to other  
10 persons?

11 A No. No.

12 Q I take it he has a correspondence office  
13 that handles that?

14 A I don't know that. I am sure that he  
15 does.

16 Q Were you -- besides the receipts for the  
17 expenditures of the governor's mansion, were you  
18 asked to handle or file any other type of financial  
19 records?

20 A Not that I remember.

21 Q Were you ever asked to assist in the  
22 handling or the filing of any personal records or

1 documents for Mrs. Clinton or Governor Clinton?

2 A Not that I remember.

3 Q When you say not that you remember, do you  
4 mean that it did not happen and therefore you do not  
5 remember, or do you mean that it could have happened  
6 and you similarly have no independent recollection of  
7 any such?

8 A It could have happened. I don't remember.

9 Q Nothing sticks out in your mind as a  
10 general thing?

11 A No.

12 Q Were you involved in Governor Clinton's  
13 presidential campaign in any capacity?

14 A Not in any official capacity.

15 Q Did you volunteer with the campaign?

16 A I did some volunteer work, yes.

17 Q What did this volunteer work entail?

18 A My mother worked in the compliance  
19 department, and I often would go down and add checks  
20 up and get them ready for deposit.

21 Q The compliance department?

22 A Accounting.



1 Q Accounting department, I'm sorry.

2 For this volunteer period of time when you  
3 were -- while you were performing these volunteer  
4 services for the campaign, besides the checks that  
5 you had to add up, did you handle -- did you handle  
6 or file any other records?

7 A No.

8 Q Just simply the checks? And did these  
9 checks deal exclusively with the campaign finances?

10 A Yes.

11 Q They didn't deal with the personal finances  
12 of the First Lady or President Clinton?

13 A No.

14 Q And then when President Clinton was elected  
15 in -- and sworn in in January of 1993, you came with  
16 him to the White House?

17 A Yes, I did.

18 Q Did you have an office in the White House  
19 when you were working as a staff assistant to Ms. Ann  
20 Stock?

21 A Yes, I did.

22 Q Where was your office located?

---

20

1 A It was in the east wing, second floor.

2 Q Did this remain your office through August  
3 17, 1995?

4 A No.

5 Q Okay. Can you tell me when you moved?

6 MR. PORTNOY: Could you clarify with her  
7 previous testimony, some witnesses have referred to  
8 the east wing and the west wing meaning only the  
9 office areas and others have spoken of an east and  
10 west wing within the residential. Are you referring  
11 to the office?

12 THE WITNESS: The office area, yes.

13 BY MR. DINH:

14 Q You are familiar with the layout of the  
15 White House?

16 A Yes.

17 Q The east wing and west wing are not  
18 considered the White House residence?

19 A Right.

20 Q The residence is the big chunk in the  
21 middle?

22 A Yes.

- 1 Q Your office was in the east wing?  
2 A Yes.  
3 Q When did you move from that office?  
4 A In October of 1994.  
5 Q When you changed jobs to your database  
6 administrator job?  
7 A Yes.  
8 Q To where did you move?  
9 A I moved to the Old Executive Office  
10 Building.  
11 Q What room number?  
12 A 98.  
13 Q And did you stay there through August 1995?  
14 A Yes, I did.  
15 Q Did you have any other space that you would  
16 consider your own? And by that I mean like an office  
17 or informal working space, that you had in the White  
18 House residence.  
19 A I lived in the White House residence from  
20 January -- January of '93 until November of '94.  
21 Q On the third floor?  
22 A On the third floor.
- 

- 1 Q What room number?  
2 A 301 and 302; I had a suite.  
3 Q Let me refer you now to what I will ask to  
4 be labeled Dickey Exhibit Number 1.  
5 (Dickey Exhibit 1 identified.)  
6 BY MR. DINH:  
7 Q Let me direct your attention to the lower  
8 left-hand corner of that -- of the exhibit which I  
9 will represent to you is a relatively old diagram of  
10 the third floor of the White House residence. And by  
11 "old," I mean I believe this was done during the  
12 Truman renovations, during the Truman Administration  
13 and there are some changes in there. The relevant  
14 ones I will ask you to tell me or I will represent to  
15 you directly.  
16 But directing your attention now to the  
17 lower left-hand corner of that diagram where it is  
18 marked rooms 301 and 302, is that the suite of rooms  
19 that you were referring to earlier?  
20 A Yes, it is.  
21 Q And you resided in the suite of rooms  
22 continually from January of 1993 until November of

1 1994?

2 A Yes, I did.

3 Q Did you move out of the White House  
4 residence in November of 1994?

5 A Yes, I did.

6 Q So you were in a private residence from  
7 November of 1994 to August 17, 1995?

8 A That's right.

9 Q At one residence?

10 A Yes.

11 Q Can you give me the address of that  
12 residence?

13 A 1670 34th Street Northwest, and it was a  
14 basement apartment.

15 Q So was there an apartment number like B or  
16 something?

17 A No.

18 Q Besides your suite of rooms, did you have  
19 another work space in the White House residence?

20 A No, I did not.

21 Q So you worked in the suite of rooms there  
22 whenever you needed to do some work while you stayed

---

1 there?

2 A I did not do any work there.

3 Q You did not do any work.

4 I take it during this period of time, when  
5 you were living in the White House residence, you saw  
6 the Clintons on a regular basis?

7 A Yes, I did.

8 Q Daily?

9 A Not daily.

10 Q Once every other day?

11 A I would say two or three times a week.

12 Q Whenever you happened to run into them?

13 A On average, two or three times a week.

14 Q Whenever you happened to run into them  
15 since you were living upstairs from where they lived?

16 A Yes.

17 Q The First Family lives on the second floor?

18 A That's right.

19 Q Did you continue to see them regularly  
20 after you moved out of the White House residence?

21 A Not nearly as regularly as I did.

22 Q Did you have occasion at times to go into

1 the White House residence after you moved out?

2 A I had occasion to, yes.

3 Q And how regular were these occasions where  
4 you would go in there, once a week, twice a week?

5 A Once a week.

6 Q I will direct your attention to more  
7 specific time periods, but I wanted to get a more  
8 general idea at this point.

9 Let me direct your attention now to the  
10 night of or the evening of July 20th, 1993, and the  
11 evening should stay fairly clearly in all our minds  
12 that was the evening that White House Deputy Counsel  
13 Vincent Foster passed away. Do you recall that  
14 evening?

15 A Yes, very well.

16 Q I would like to focus your attention, and  
17 try to jog your memory by going through the evening  
18 very systematically, to make sure we cover all our  
19 bases and to make sure we get your best recollection.

20 Where did you have dinner that night?

21 A I don't remember.

22 Q You don't remember. But at that time you

1 were living in the White House residence?

2 A Yes, but I did not have a kitchen, so I --  
3 I often went without dinner.

4 Q Okay. Did you hear that, Mrs. Dickey?

5 On a normal day, at this time, I believe  
6 your office was in the east wing of the White House?

7 A Yes.

8 Q You would get off work in your office --  
9 you would do most of your work in the east wing  
10 office?

11 A Yes.

12 Q That's during the day?

13 A Yes.

14 Q And then at approximately what time would  
15 your normal schedule permit you to get off work?

16 A During this period of time?

17 Q Yes, during this period of time.

18 A Anywhere between 6:00 and 8:00.

19 Q Between 6:00 and 8:00. Do you recall that  
20 particular night, that is July 20th, 1993, what time  
21 approximately did you get off work?

22 A I don't recall what time I got off work. I



1 would say it was between 6:00 and 8:00.

2 Q Between 6:00 and 8:00. Incidentally, does  
3 your office have a lock on it?

4 A At that period of time it did not. I had a  
5 central office, so my office, the suite of offices  
6 had a lock on it. I moved in September of 1993,  
7 within the suite, to a private office that did have a  
8 lock.

9 Q During this time you were in the general  
10 common area of the suite of offices?

11 A That's right.

12 Q And the suite of offices would be the  
13 social office?

14 A The social office.

15 Q Do you recall what room number that was?

16 A 200.

17 Q Room 200, and that had a lock on it, the  
18 main door had a lock on it?

19 A That's right.

20 Q Do you know if that lock is locked on a  
21 nightly basis by the Secret Service?

22 A It's normally locked.

1 Q It is normally locked?

2 A By the last person out of the office.

3 Q Just simply with a key?

4 A Yes.

5 Q Do you know if the Secret Service has an  
6 alarm on that lock, on that door?

7 A I do not know.

8 Q Have you had occasion to lock it when you  
9 were the last person out from time to time when you  
10 were working in that office?

11 A Yes.

12 Q When you do so, you just simply turn the  
13 lock and lock it?

14 A Yes.

15 Q Do you make a call down to the Secret  
16 Service and tell them to activate their alarm?

17 A No.

18 Q That's not the normal procedure you would  
19 follow?

20 A No.

21 Q That kind of procedure was not instructed  
22 for you at the time you joined the office?

1 A That's right.

2 Q You simply punched a button and turned the  
3 key?

4 A Turn the key.

5 MR. TISDALE: Let him finish his question  
6 before you answer. I am not sure she can get both of  
7 you.

8 THE WITNESS: Okay.

9 BY MR. DINH:

10 Q And in the morning when you come in, have  
11 you had occasion to be the first one in the office?

12 A Yes, I have.

13 Q At that time you simply put your key back  
14 in and unlock the door?

15 A That's right.

16 Q You don't have to call down to the Secret  
17 Service in order to deactivate any alarms?

18 A That's right.

19 Q Okay. So you testified earlier that if  
20 July 20, 1993 was like any other night, you would  
21 expect to be getting off work any time between 6:00  
22 to 8:00?

1 A That's right.

2 Q You don't remember approximately when in  
3 this two-hour time frame that you left work that  
4 night?

5 A No.

6 Q Okay. Was it light out when you left?

7 A I don't remember.

8 Q You have a fairly short walk from the east  
9 wing to the White House residence, I take it. Do you  
10 take the tunnel? Is there a tunnel going from the  
11 east wing to the White House residence or is it a  
12 normal hallway?

13 A There is just a normal hallway.

14 Q When you walk from your office, from the  
15 east wing to the White House residence, do you  
16 usually enter the White House residence at the ground  
17 floor?

18 A Yes.

19 Q At the -- and take the elevator up to the  
20 third floor, or wherever in the residence you were  
21 going?

22 A Yes.

1 Q Do you remember if this was the route that  
2 you took that night?

3 A I don't remember.

4 Q But that would be your normal course?

5 A Occasionally I would stop off in the ushers  
6 office to visit with the ushers, so that was on the  
7 first floor.

8 Q On the state floor?

9 A Yes.

10 Q When you do stop off, do you still go  
11 through the ground floor and then stop at the ushers  
12 office, or do you enter through the state office?

13 A No, I walked up the stairs from the ground  
14 floor to the ushers office.

15 Q You stated you did not remember where you  
16 had dinner, and it is very likely you would have gone  
17 without dinner?

18 A Probably true.

19 Q Do you recall what you did after you left  
20 work? After you left work and came into the White  
21 House residence, did you stop off at the ushers  
22 office that night?

1 A I don't remember that.

2 Q You don't recall. At some point did you  
3 make it back to your room?

4 A Yes.

5 Q Did you make it -- do you remember going  
6 directly up to your room, or did you stop off  
7 elsewhere?

8 A I don't remember.

9 Q You don't recall, okay. So at some point  
10 you found yourself -- you were in your room. Do you  
11 remember approximately when was the first time --  
12 what time it was when you first came into your room?

13 A No, I don't.

14 Q Did you stay in your room for the rest of  
15 the night?

16 A No.

17 Q What did you do then?

18 A I went up to the solarium, to watch the  
19 President on Larry King Live.

20 Q And directing your attention now to the  
21 exhibit that was -- that is placed in front of you  
22 that is labeled Dickey 1, is the solarium the room

- 1 labeled here the sun room, room 337?  
2 A Yes, it is.  
3 Q That is just over the portico; is that  
4 right?  
5 A No, it is over the Truman balcony.  
6 Q On the south side?  
7 A Overlooking the south lawn.  
8 Q Are you looking out toward the Washington  
9 Monument?  
10 A Yes.  
11 Q Thank you. So you are pretty well oriented  
12 now with the diagram?  
13 A Right.  
14 Q That is south, I am drawing here?  
15 A That's right.  
16 Q So you went to the sun room. Was there a  
17 TV set in the room at the time?  
18 A Yes.  
19 Q Is there normally a TV set in the room?  
20 A Yes.  
21 Q Actually can you take my pen here and put  
22 an X through where the TV set was.
- 

- 1 A (Witness complied.)  
2 MR. PORTNOY: The record should reflect  
3 that the witness has marked the solarium on the -- on  
4 the diagram, on what would be the lower portion of  
5 the room to the right of the entry door.  
6 MR. DINH: With a red pen.  
7 Actually in order to make it show up clear,  
8 I will put a circle right behind it with the same pen  
9 so when it gets photocopied for the record, it will  
10 show up a little easier.  
11 MR. PORTNOY: That would be the northwest  
12 side of the room.  
13 MR. DINH: Right. Adjacent to the door as  
14 you enter.  
15 BY MR. DINH:  
16 Q Correct, that's the door into the solarium?  
17 A That's the door, that's right, but wouldn't  
18 this be northeast? This is northeast.  
19 Q No, it is northwest.  
20 A I lived on the northwest corner. North,  
21 south --  
22 MR. DINH: Off the record.



1 (Discussion off the record.)

2 BY MR. DINH:

3 Q So that will be -- let me reorient. Off  
4 the record, I have written in my own pen the four  
5 orientations; that is the bottom of the diagram is  
6 north, the top of the diagram is south, and looking  
7 right side up, the left of the diagram is east and  
8 the right of the diagram is west. So that would be  
9 on the northwest corner -- I'm sorry, on the  
10 southwest corner of the room right adjacent to the  
11 doorway at this time at this northwest wall of the  
12 solarium, right adjacent to the door on the  
13 right-hand side as you enter; correct?

14 A Correct.

15 Q And I understand that that room is also  
16 used for meals at times?

17 A That's right.

18 Q And is the dining room table more toward  
19 the south side of the room?

20 A It is more toward the southeast side of the  
21 room.

22 Q Were there couches or something like that

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36

1 that formed the TV viewing suite?

2 A There are two, yes.

3 Q So it is used also as the TV viewing room  
4 and also the informal dining area for the third  
5 floor?

6 A Yes.

7 Q Do you recall taking dinner in the sun room  
8 that day?

9 A No.

10 Q So you went into the sun room; at  
11 approximately what time was that?

12 A I don't recall.

13 Q Do you remember what show you watched when  
14 you first came in the room?

15 A No, I do not.

16 Q Did you at some point indeed watch the  
17 Larry King Live show --

18 A Yes.

19 Q -- that night?

20 Did you leave the sun room before the  
21 beginning of that program -- before the beginning of  
22 that program since you entered?

1 A No.

2 Q You entered and you do not recall what time  
3 it was or what show it was, but you stayed in the TV  
4 room until the beginning of the Larry King Live show?

5 A That's right.

6 Q Do you recall approximately what time the  
7 Larry King Live show went on that night?

8 A 9:00.

9 Q Did you watch the show until the end?

10 A Yes, I did.

11 Q Did anybody come into the room and watch  
12 the show with you?

13 A No.

14 Q You were alone in the room at all times?

15 A Yes.

16 Q And I take it you remember because that was  
17 the night that President Clinton had made an  
18 appearance on the Larry King Live show?

19 A That's right.

20 Q Did you remain in the TV room at the  
21 conclusion of the Larry King Live show?

22 A Yes.

1 Q For how long, do you know?

2 A I don't recall.

3 Q You don't recall. 10 minutes, 15 minutes?

4 A I don't recall.

5 Q Did somebody come in to the solarium after  
6 the Larry King Live show ended?

7 A Yes.

8 Q Who was the first person to come into the  
9 solarium?

10 A The first person I remember coming into the  
11 solarium was John Fanning, F-a-n-n-i-n-g, the  
12 doorman.

13 Q And do you recall approximately how long  
14 after the conclusion of the Larry King Live show this  
15 was?

16 A No, I am not even sure that it was not  
17 before the conclusion.

18 Q But it is -- but are you sure that it was  
19 after the start of the Larry King Live show?

20 A Absolutely.

21 Q Was anybody with Mr. Fanning?

22 A No.

1 Q Did Mr. Fanning say anything to you?  
2 A Yes, he did.  
3 Q What did he say?  
4 A He told me that Vince Foster's body had  
5 been found.  
6 Q Did he tell you anything else?  
7 A He told me that -- that he had committed  
8 suicide.  
9 Q "He" being Vince Foster?  
10 A Yes.  
11 Q Did he tell you where the body had been  
12 found?  
13 A No.  
14 Q Did he tell you when the body had been  
15 found?  
16 A No.  
17 Q Did he tell you how he came to gain that  
18 information?  
19 A No.  
20 Q Did you ask him?  
21 A No.  
22 MR. PORTNOY: I am going to object now, and

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1 make clear on the record that it has been the  
2 position of the Minority consistently that this area  
3 of inquiry, concerning the details of Mr. Foster's  
4 death exceeds the Committee's authority under the  
5 Resolution and is outside the scope of proper  
6 questioning.  
7 I would ask Mr. Dinh to state for the  
8 record the Majority's theory as to why this line of  
9 questioning is within the scope of the Resolution.  
10 MR. DINH: Right. My goal, and I believe  
11 it is consistent with the view of the majority of the  
12 members on the Committee, is that Section 1(b)(1) of  
13 Senate Resolution 120 authorizes the investigation  
14 into the handling of papers in the office of Vincent  
15 Foster at the time of his death. Part of the -- part  
16 of that inquiry is to determine the precise point at  
17 which the White House was advised of the news of  
18 Mr. Foster's death, and therefore, establishing the  
19 proper parameters as to when and -- when and what and  
20 how the documents in Mr. Foster's office at the time  
21 of his death were handled by the White House  
22 officials.

1 MR. PORTNOY: Then for the record, we have  
2 now established the time and manner in which  
3 Ms. Dickey learned of Mr. Foster's death. And based  
4 on the explanation you have just given, that ought to  
5 exhaust the inquiry of this witness.

6 MR. DINH: I very much appreciate your  
7 opinion on that, Mr. Portnoy. I do think it is  
8 within my prerogative to probe further in order to  
9 see whether I can further refresh Ms. Dickey's  
10 recollection or indeed to be satisfied that her  
11 recollection is consistent with other testimony and  
12 other evidence, so I would ask you for your  
13 indulgence.

14 MR. TISDALE: If I can add something. If  
15 you want to set a foundation by asking her if she had  
16 anything to do with any of the documents in  
17 Mr. Foster's office or saw any of them, I mean that  
18 may shortcut a whole lot of what you are trying to  
19 do.

20 And I think that's clearly the only basis  
21 on which you ought to proceed with continuing to ask  
22 her about what went on.

1 MR. DINH: As I explained earlier, I do not  
2 have any independent knowledge or need to establish  
3 the foundation; rather whether Ms. Dickey was  
4 personally involved in the handling of the papers.  
5 We do know that other White House officials were  
6 involved in the handling, and as such, I would like  
7 to establish when any person in the White House had  
8 information relevant to Mr. Foster's death, and  
9 Ms. Dickey's testimony is relevant to that.

10 MR. TISDALE: As I say, if you want to ask  
11 her if she knows of anybody that had anything to do  
12 with those papers, I am sure she would be glad to  
13 tell you.

14 MR. PORTNOY: If the Majority chooses not  
15 to ask that question --

16 MR. DINH: Right. I certainly will ask  
17 that question when the time comes, but like I said,  
18 it would not forestall any other line of  
19 questioning.

20 BY MR. DINH:

21 Q Mr. Fanning came into the sun room, the  
22 solarium where you were watching the show. After he



1 notified you of the news of Mr. Foster's death, did  
2 you have a subsequent conversation with him? Did you  
3 talk to him; did you engage him in conversation?

4 A No.

5 Q What did you do?

6 A I fell apart.

7 Q You fell apart. By that, did you mean you  
8 left the sun room?

9 A Yes, I did.

10 Q Did Mr. Fanning remain in the sun room?

11 A I don't know.

12 Q And I know that this is -- at that point  
13 the news may be a shock to you, and so -- but let me  
14 just ask you, what do you remember next doing?

15 A I went down to the second floor.

16 Q Do you recall which stairway or elevator  
17 you took in order to go down to the second floor?

18 A No, I don't.

19 Q You went down to the second floor. Did you  
20 see anybody on the second floor?

21 A I saw one of the butlers.

22 Q Do you remember what the butler's name is?

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1 MR. PORTNOY: Can we clarify, you went down  
2 to the second floor of the residence.

3 THE WITNESS: Yes, I did. Ricardo was his  
4 name.

5 BY MR. DINH:

6 Q Ricardo. This would be Ricardo  
7 S-a-n-v-i-c-t-o-r-e-s?

8 A Yes.

9 Q Did you say anything to Mr. Sanvictores?

10 A Yes, I did.

11 Q What did you say to him?

12 A He asked me what was wrong and I told him  
13 Vince Foster had killed himself.

14 Q Did he know that prior to you telling him?

15 A No.

16 Q Did you have a subsequent conversation with  
17 him at this point?

18 A No.

19 Q What was his reaction to the news?

20 A He was shocked.

21 Q He was shocked. Okay. Did you see anybody  
22 else on the second floor while you were there?

1 A No.  
2 Q What did you do then?  
3 A I called my mother.  
4 Q You called your mother from the second  
5 floor?  
6 A From the kitchen, second floor kitchen.  
7 (Discussion off the record.)  
8 MR. DINH: Back on the record. Let me  
9 place in front of you now what I will ask the  
10 stenographer to label as Dickey Exhibit 2.  
11 (Dickey Exhibit 2 identified.)  
12 BY MR. DINH:  
13 Q Let me represent to you that this is a  
14 historical sketch of approximately -- exactly the  
15 same vintage of the earlier sketch which we had  
16 explored that was Dickey 1. Dickey 1 was the third  
17 floor of the White House; this is the second floor  
18 plan of the White House. Again this is a little bit  
19 dated. It dates back to the Truman Administration,  
20 but as you can see, the orientation is the same:  
21 north is toward the bottom, south is toward the top,  
22 and -- does this look roughly familiar to you?

1 A Yes.  
2 Q Can you tell me which room is the kitchen?  
3 A 217.  
4 Q 217. Can you go ahead and put an X --  
5 A And circle it?  
6 Q Yes.  
7 A (Witness complied.)  
8 Q Was there more than one phone in room 217?  
9 A No.  
10 Q Do you remember approximately where was  
11 that phone located?  
12 A Next to the door.  
13 Q Next to the door; go ahead and put --  
14 A On the -- where was that?  
15 MR. PORTNOY: That would be the east wall.  
16 BY MR. DINH:  
17 Q On the east wall, place a small X without a  
18 circle there.  
19 A (Witness complied.)  
20 Q And that was the phone with which you  
21 called your mother, Mrs. Dickey?  
22 A Yes.

1 Q Was she in Little Rock at the time?

2 A No, she was in Falls Church.

3 Q In Falls Church. Was she the first person  
4 you contacted on the telephone that night?

5 A Yes.

6 Q Just so I get a better handle on the time  
7 frame, you stated that, upon learning the news of  
8 Mr. Foster's death, you walked down to the second  
9 floor, and then on the way, you saw Mr. Sanvictores?

10 A I went into the kitchen and Ricardo was in  
11 the dining room at the kitchen door so I didn't have  
12 to walk around.

13 Q You didn't have to walk around, it was just  
14 on your way to the kitchen?

15 A That's right.

16 Q Did you go to the kitchen expressly to use  
17 the phone?

18 A No, I went to the kitchen to find the  
19 President.

20 Q To find the President, and you ran into  
21 Mr. Sanvictores and you told him that Mr. Foster had  
22 passed away?

1 A That's right.

2 Q And you testified you didn't have a  
3 conversation or discussion with respect to that news?

4 A That's right.

5 Q So it was a fairly direct path -- how long  
6 do you estimate that to take from the solarium to the  
7 kitchen?

8 A 30 seconds to a minute.

9 Q 30 seconds to a minute. And allowing for  
10 half a minute for your conversation with  
11 Mr. Sanvictores, you would say within five minutes  
12 you were in the kitchen?

13 A Yes.

14 Q How long did you talk to your mother for?

15 A Two or three minutes.

16 Q Was the substance of the conversation the  
17 news that Mr. Foster had passed away?

18 A Yes, it was.

19 Q Did you talk about anything else?

20 A No.

21 Q Did you call anybody else that night?

22 A I called my father.

- 1 Q Immediately after calling your mother?  
2 A Yes.  
3 Q And where was he living at the time?  
4 A Atlanta, Georgia.  
5 Q And how long were you on the phone with  
6 your father?  
7 A Two to three minutes.  
8 Q The same thing, the substance being  
9 Mr. Foster's death?  
10 A Yes.  
11 Q I take it they had both met Mr. Foster  
12 before?  
13 A Very close.  
14 Q Very close. Did they both previously live  
15 in Little Rock?  
16 A My mother and my father?  
17 Q Yes.  
18 A Yes.  
19 Q Did you call anybody else after talking to  
20 your father?  
21 A Not immediately after, no.  
22 Q What did you do immediately after hanging

- 1 up with your father?  
2 A To the best of my recollection, I went back  
3 up to the third floor.  
4 Q Where did you go on the third floor?  
5 A I don't know.  
6 Q Did you go to your room?  
7 A I don't know.  
8 Q Did you go back to the solarium?  
9 A I don't know.  
10 Q What is the next thing that you remember?  
11 A The next thing I remember is I went back  
12 down to the third -- to the second floor kitchen.  
13 Q Do you know approximately how long you  
14 stayed on the third floor?  
15 A No, I don't.  
16 Q And you stated you had gone to the second  
17 floor kitchen in order to find the President?  
18 A Yes.  
19 Q Was this return trip to the kitchen for the  
20 same purpose?  
21 A Yes.  
22 Q Did you indeed find the President there the



1 second time?

2 A Yes, I did.

3 Q I take it the first time you did not see  
4 the President?

5 A That's right.

6 Q Did the President give you the news of  
7 Mr. Foster's death or did you advise him of the news?

8 A He knew.

9 Q He knew?

10 A Yes.

11 Q You told him, he said he knew or he --

12 A I asked him, I asked him what happened, I  
13 knew he knew and I asked him what happened.

14 Q And what did he say?

15 A He told me that he had -- that Vince Foster  
16 had shot himself in a park.

17 Q And of course, the President was a guest on  
18 the Larry King Live show so by this time the show  
19 would have been over?

20 A That's right.

21 Q Is that a logical conclusion?

22 A That's right.

1 MR. PORTNOY: Can I ask a clarifying  
2 question?

3 MR. DINH: Sure.

4 MR. PORTNOY: Do you know where the show  
5 was filmed, where Mr. Clinton was when it was  
6 filmed?

7 THE WITNESS: Yes, I do.

8 MR. PORTNOY: Was he in the White House?

9 THE WITNESS: Yes.

10 BY MR. DINH:

11 Q Was anybody in the kitchen when you came  
12 in, besides the President?

13 A Yes.

14 Q Who else?

15 A George Stephanopoulos was there.

16 Q Anybody else?

17 A Mack McLarty and Mark Gearan, G-e-a-r-a-n.

18 Q Approximately how long did your  
19 conversation with the President last?

20 A Two minutes.

21 Q Did you say anything other -- did you say  
22 hi to Mr. Stephanopoulos?

1 A No, I did not.

2 Q Did you talk to Mr. McLarty?

3 A No, I didn't.

4 Q Mr. Gearan?

5 A No.

6 Q Did you remain in the room after you talked  
7 to the President?

8 A No.

9 MR. TISDALE: I don't want to tell her not  
10 to answer, but I mean, so far you have determined  
11 when she found out. You've determined when --  
12 approximately when the President found out. You  
13 know, if we are going to get to the documents, I  
14 mean -- or whether she saw them or whether anybody --  
15 whether she saw anybody with them, I hope we can do  
16 that soon.

17 BY MR. DINH:

18 Q What did you do after you left the kitchen  
19 after your two- or three-minute conversation with the  
20 President?

21 A I went back up to the third floor.

22 Q Do you recall where on the third floor?

1 A The third floor hallway.

2 Q And did you at that time make a call to  
3 somebody?

4 A Yes, I did.

5 Q To whom did you make the call?

6 A There were three phone calls that I made  
7 and I don't remember who came first; I know who came  
8 last.

9 Q Okay. Can you give me all three?

10 A Yes; Ann Stock, Ann McCoy, and the  
11 governor's mansion.

12 Q The governor's mansion in Arkansas?

13 A Yes.

14 Q And did you make all three of these phone  
15 calls from the same phone?

16 A Yes, I did.

17 Q And you stated it was in the White House,  
18 in the hallway of the third floor of the White House?

19 A That's right.

20 Q Can you take your pen and mark on Dickey  
21 Exhibit I, which is the earlier sketch of the third  
22 floor of the White House, approximately where this

1 phone was located?

2 A (Witness complied.)

3 Q Was this a phone that you regularly used?

4 A Not regularly, but I did use it.

5 Q Do you know what the extension of the phone  
6 is?

7 A No, I don't. It's been changed. They've  
8 updated the phones since that time.

9 Q And who did you reach when you called the  
10 governor's mansion in Arkansas?

11 MR. PORTNOY: If we could go back a step,  
12 the witness testified she was only partially sure of  
13 the order of the calls. She didn't know which two  
14 calls were first but she knew which was third. Can  
15 we establish that?

16 BY MR. DINH:

17 Q The call to the governor's mansion, was  
18 that the last call that you made?

19 A That was the last call.

20 Q You did not recall which Ann you called  
21 first?

22 A Right.

1 Q But you called the two Anns, Ms. Stock and  
2 Ms. McCoy, and then you called the governor's  
3 mansion?

4 A That's right.

5 Q Do you recall approximately how long your  
6 conversation with Ms. Stock was?

7 A No more than five minutes.

8 Q How long was your conversation with  
9 Ms. McCoy?

10 A The same.

11 Q Who did you reach when you called the  
12 governor's mansion?

13 A Roger Perry.

14 Q Who is Roger Perry, to the best of your  
15 knowledge?

16 A He is a state trooper.

17 Q Did you know Mr. Perry prior to this --  
18 prior to the night of July 20, 1993?

19 A Yes.

20 Q I take it from your earlier experience in  
21 the governor's mansion?

22 A That's right.

1 Q Did you call to the governor's mansion to  
2 talk to Mr. Perry?

3 A No.

4 MR. PORTNOY: I would think at this point I  
5 would like the record to reflect Mr. Perry was  
6 scheduled to be deposed by the Committee, and at the  
7 request of his counsel, his deposition was canceled  
8 after the Committee requested telephone records and  
9 work records that would either confirm or not confirm  
10 his version of events.

11 MR. DINH: Since I was the person dealing  
12 directly with counsel at the time, and with Lance  
13 Cole and other Minority counsel, at the time there  
14 was no deposition scheduled. And we were engaging in  
15 conversations with counsel at that time with some  
16 tentative dates.

17 And upon learning that we would like to  
18 pursue the telephone record, indeed counsel expressed  
19 that it may be advisable, since the records would be  
20 able to speak for themselves, that we hold off with  
21 the deposition until then.

22 We have been unable, unfortunately, to get

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1 any telephone records either from the governor's  
2 mansion or from the White House that would show with  
3 any specificity any calls made to or from the White  
4 House to or from the governor's mansion, and so we  
5 are where we were six months ago.

6 MR. PORTNOY: I would like to correct one  
7 statement. Or perhaps "correct" is the wrong word.

8 MR. DINH: Clarify?

9 MR. PORTNOY: Clarify. According to a  
10 memorandum dated October 2, 1995, from Bob Giuffra,  
11 Lou Gicale and Alice Fisher, Majority staff, to Neal  
12 Kravitz and Lance Cole of the Minority staff, the  
13 troopers were scheduled to be deposed 9:30 a.m. on  
14 October 10th, so at least to the best of your  
15 knowledge, they were in fact scheduled to be deposed,  
16 and the deposition subsequently canceled.

17 It may be that Mr. Dinh has a more precise  
18 recollection of the events, but speaking from the  
19 documents, there was a deposition scheduled.

20 MR. DINH: I think this may be a case where  
21 we may both be right. That schedule that you were  
22 reading reflecting the October 2, 1994 memorandum was



1 prior to the practice of the Committee to place the  
2 confirm or nonconfirm designation on the particular  
3 listings.

4 See, at that time, the quote, unquote  
5 scheduled deposition was only simply a suggestion  
6 on -- a tentative suggestion as to the proper date  
7 and time when we could do so, if indeed we decided to  
8 proceed. But thank you very much, Mr. Portnoy.

9 MR. PORTNOY: A last clarification if I  
10 may, is it correct to say the Majority has not  
11 received work schedules from the troopers either?

12 MR. DINH: Off the record on this.

13 (Discussion off the record.)

14 MR. DINH: Back on the record. While we  
15 were off the record, Minority and Majority counsel  
16 had a brief discussion regarding the work schedule of  
17 the troopers at the governor's mansion for the night  
18 of July 20, 1993, and we will pursue it after the  
19 deposition.

20 BY MR. DINH:

21 Q Approximately how long did you talk to  
22 Officer Perry?

1 A Two or three minutes.

2 Q What did you say to him?

3 A I -- I called just to let you know that  
4 Vince Foster has committed suicide. I just wanted  
5 you all to know before you heard it on the news.

6 Q Did they knew Mr. Foster?

7 A Yes.

8 Q Did he ask you any questions?

9 A I don't remember.

10 Q Did you tell him that -- did you tell  
11 Trooper Perry that Mr. Foster had gotten off work and  
12 had gone out to his car in the parking lot and had  
13 shot himself in the head?

14 A Absolutely not.

15 MR. TISDALE: If you've got something that  
16 might refresh her memory about what she did say, you  
17 might want to show it to her and see if it does any  
18 good.

19 BY MR. DINH:

20 Q Did you tell Trooper Perry that  
21 Mr. Foster's body had been found in a park?

22 A I do recall saying that.

1 Q Did you talk to anybody else at the  
2 governor's mansion?

3 A No, I did not.

4 Q Did Officer Perry say anything to you that  
5 you can recall?

6 A He showed signs of being shocked and being  
7 very sad.

8 Q Did you tell him to go tell -- do you know  
9 the then-Governor Jim Guy Tucker?

10 A No, I don't.

11 Q But you knew of other persons in the  
12 governor's mansion?

13 A I'm sorry?

14 Q Did you know other persons besides Trooper  
15 Perry in the governor's mansion?

16 A No, I did not. I spent a lot of time out  
17 with the guards and I just was calling to let them  
18 know. And I think I remember saying, you know,  
19 something to the effect of, you might want to let  
20 the -- I don't know if you want to let the governor  
21 know, but --

22 Q Did you tell him to tell the other guards,

---

1 who you also may have known?

2 A No.

3 Q But you definitely did not tell him that  
4 Mr. Foster had shot himself in the parking lot?

5 A Absolutely not.

6 Q And you are sure because that is contrary  
7 to the facts as you knew it then?

8 A That's right.

9 Q Is that contrary to the facts as you know  
10 it now?

11 A That's right.

12 Q At any time -- did at any time -- at any  
13 time did you have any information that would have led  
14 you to conclude that Mr. Foster had committed suicide  
15 in the parking lot?

16 A No.

17 MR. PORTNOY: Once again, I would like the  
18 record to reflect the Minority's view that the  
19 location in which Mr. Foster's body was found is  
20 outside the scope of the Resolution and does not  
21 reasonably pertain to a discussion about the handling  
22 of documents that may or may not have been in

1 Mr. Foster's office at the time of his death.

2 BY MR. DINH:

3 Q Let me just back up a little bit, and I  
4 think I might have asked you this question, but just  
5 to cover my own tracks, did Mr. Fanning tell you how  
6 he came to learn of Mr. Foster's death?

7 A No.

8 Q Did you have subsequent conversations with  
9 Mr. Fanning, that is after the night of July 20,  
10 1993, regarding Mr. Foster's death?

11 A Yes.

12 Q Did he subsequently tell you where he  
13 learned that information?

14 A I don't remember.

15 Q You don't remember. What was your -- when  
16 did you next talk to Mr. Fanning regarding  
17 Mr. Foster's death?

18 A I don't remember.

19 Q Was it that week?

20 A I don't remember.

21 Q Same year?

22 A I don't remember.

1 Q Do you recall the substance of the  
2 conversation?

3 A The only conversation -- the only substance  
4 of any conversation that had to do with it, that I  
5 remember, had to do with, John has this way of kind  
6 of having a smirk on his face and he had that kind of  
7 look on his face when he told me. And it was kind of  
8 a halfway smile and it was because he felt really bad  
9 about having to tell me.

10 Q Right.

11 A And when he told me, he had that look on  
12 his face and I said, you know, it is not funny, John,  
13 and he said I am being serious.

14 Q This is at the time when you were in the  
15 sun room?

16 A That's right.

17 Q And then you had a subsequent conversation?

18 A So we talked about it later, and he said  
19 that was because I really felt bad about telling  
20 you. And that's the only conversation I remember  
21 having.

22 Q Because he knew that you were very close to

1 Mr. Foster?

2 A That's right.

3 Q Incidentally, do you remember what the  
4 phone number was at the governor's mansion that you  
5 dialed?

6 A I went through the operator.

7 Q You went through the operator, you went  
8 through the White House operator?

9 A That's right.

10 Q So you picked up the phone and you pressed  
11 zero, is that how you get the operator?

12 A Right.

13 Q You get the White House switchboard and  
14 then you gave the operator a number to call?

15 A I first called Ann Stock and Ann McCoy  
16 whose numbers I did not know, which is why I used the  
17 White House operator.

18 Q You used the White House operator and said  
19 connect with me with Ann Stock?

20 A That's right.

21 Q They would dial the number, they would look  
22 up in their directory because they have the numbers

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1 of all the White House employees; I take it?

2 A That's right. That's right.

3 MR. TISDALE: Let him finish his question  
4 before you answer.

5 MR. PORTNOY: Off the record.

6 (Discussion off the record.)

7 MR. DINH: Can you read me the last  
8 exchanges, please, just the question and answer.

9 (The reporter read the record as requested.)

10 MR. DINH: Back on the record.

11 BY MR. DINH:

12 Q Now, with respect to the third phone call,  
13 the phone call to the governor's mansion, did you  
14 follow the same procedure?

15 A Yes, I did.

16 Q You pressed zero and got the White House  
17 operator?

18 A Yes, I did.

19 Q What did you tell the White House operator?

20 A I don't remember.

21 Q Did you say I want the governor's mansion  
22 in Arkansas?



1 A I don't remember.

2 Q Did you give them a specific number to  
3 dial?

4 A I don't remember.

5 Q Did you know at that time the number of the  
6 governor's mansion?

7 A Yes, I did.

8 Q Can you give me that number now?

9 A 501-376-6884.

10 MR. TISDALE: For clarification, I am not  
11 sure that that is still the number now. The state  
12 offices have gone on a different telephone system and  
13 most of the prefixes are 682 but I don't know for a  
14 fact whether the governor's mansion has changed or  
15 not.

16 MR. DINH: Thank you very much for that,  
17 Mr. Tisdale.

18 BY MR. DINH:

19 Q And is that the main number for the  
20 governor's mansion?

21 A Yes, it is.

22 Q And that would be the number that you call,

1 that you personally would call or would you have  
2 other extensions that you would call?

3 A No, that would be the number.

4 Q That would be the main number and then you  
5 would ask to speak to whomever, or you would speak to  
6 whomever picks up the phone?

7 A That's right.

8 Q On this particular night, it was Officer  
9 Perry who first picked up the phone?

10 A That's right.

11 Q You didn't go through an operator on the  
12 other end?

13 A That's right.

14 MR. TISDALE: Again for clarification,  
15 Arkansas is a poor state and the state trooper is the  
16 operator. The phone rings in the guard shack.

17 MR. DINH: It is not limited to the state  
18 of Arkansas. I must tell you the Supreme Court has  
19 the same practice on the weekends and at night.

20 BY MR. DINH:

21 Q Let me move your attention away from the  
22 evening of July 20th and ask you more generally to

1 focus on the week of July 20th through July 27th,  
2 1993, that is the Tuesday to Tuesday after  
3 Mr. Foster's death.

4 During this time, did you have any  
5 conversations with anyone in the White House  
6 regarding the handling of papers in Mr. Foster's  
7 office?

8 A No.

9 Q When did you first talk to the First Lady  
10 regarding Mr. Foster's death?

11 A I don't remember.

12 Q Did you call her while she was in Little  
13 Rock?

14 A No, I did not.

15 Q You did not. So it would have been after  
16 she came back on the Saturday after Mr. Foster's  
17 death?

18 A It was after the funeral.

19 Q It was after the funeral, and you recall  
20 the conversation as being in person?

21 A I don't recall the conversation at all. I  
22 just know I didn't speak to her until after the

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1 funeral.

2 Q You don't recall any specific conversation  
3 with the First Lady?

4 A No.

5 Q But you probably would have had one?

6 A I don't recall.

7 Q Do you know Maggie Williams?

8 A Yes, I do.

9 Q Did you have a conversation with  
10 Ms. Williams regarding the death of Mr. Foster?

11 A Not that I remember.

12 Q Again, just for clarification, it could  
13 have happened, you simply don't remember it, or  
14 likely it would not have happened?

15 A I don't think it happened.

16 MR. PORTNOY: These questions are for the  
17 time period of July 20 through July 27; is that  
18 correct.

19 MR. DINH: Yes, that's correct. Thank you  
20 very much, Jim.

21 BY MR. DINH:

22 Q Do you know who Susan Thomases is?

1 A I do.

2 Q Did you have any conversations with her  
3 regarding the death of Mr. Foster?

4 A No.

5 Q Again, focusing your attention between the  
6 period -- to the period between July 20 and July 27,  
7 did you happen to see Diane Blair in the White House  
8 residence?

9 A I don't recall.

10 Q And I take it you don't recall talking to  
11 her about Mr. Foster's death?

12 A I don't recall.

13 Q Were you involved in any actual review of  
14 any files that you understand to have been from  
15 Mr. Foster's office in the period from July 20th to  
16 July 27, 1993?

17 A No.

18 Q Did there come a time when you learned that  
19 a note had been discovered in Mr. Foster's  
20 handwriting?

21 A Yes.

22 Q Approximately when was that?

---

1 A I don't have any idea.

2 Q How did you learn of that fact?

3 A From the media.

4 Q You didn't have any conversation with  
5 anybody in the White House who gave you that  
6 information?

7 A No.

8 Q Did you have any subsequent conversations  
9 with anybody in the White House regarding the note  
10 that was discovered in Mr. Foster's handwriting?

11 A I don't recall.

12 Q Do you recall any conversation with  
13 Mrs. Clinton on that subject?

14 A I don't recall.

15 Q With Ms. Williams?

16 A I don't recall.

17 Q Let me direct your attention now to  
18 Tuesday, July 27, 1993, which is exactly one week  
19 after Mr. Foster's death. Do you recall whether you  
20 were at work that day?

21 A I don't recall.

22 Q It was a Tuesday.

1 A I would assume that I would be.

2 Q You would assume. And again, you would  
3 come in -- do you recall when you came back from  
4 work?

5 A No.

6 Q When you came back from work, and going to  
7 the White House residence, do you recall seeing  
8 anybody, that is like besides the Secret Service  
9 officer and ushers?

10 A I don't have any idea. That day was like  
11 any other day.

12 Q Did you see Mr. Nussbaum?

13 A I don't have any idea.

14 Q Did you see Mr. Nussbaum on a regular  
15 basis?

16 A Not on a regular basis, no.

17 Q And I take it you didn't see the Attorney  
18 General, Janet Reno, that day?

19 A Not that I recall.

20 Q That would have stuck out in your mind?

21 A I saw her several times but I have no idea  
22 if it was July 27.

1 Q Do you recall if you were -- during the day  
2 now, specifically focusing on the afternoon of July  
3 27th, 1993, do you recall whether you were in the  
4 White House residence at that time?

5 A I don't have any idea.

6 Q You don't have any idea. Thank you.

7 Do you recall seeing Ms. Susan Thomases any  
8 time that week; that is, July 20 through July 27,  
9 1993?

10 A I don't have any idea.

11 Q Did you see Ms. Thomases around the White  
12 House often?

13 A Not often.

14 Q Not often. Do you know who Mr. Robert  
15 Barnett is?

16 A Yes.

17 Q Do you see him around the White House  
18 often?

19 A No, not often.

20 Q Do you recall whether one of the times when  
21 you saw him --

22 MR. TISDALE: Can I ask a question. You



1 are not talking about now, are you?

2 BY MR. DINH:

3 Q No. July 20th through July 27th, 1993.

4 A I don't remember.

5 Q You don't remember if that was one of the  
6 times you saw him in the residence?

7 A No, I don't remember.

8 Q Let me direct your attention now to a more  
9 recent period, that is last year, and specifically to  
10 the period between mid-July 1995 through mid-August  
11 1995. And if you will recall, August 15th is when  
12 the First Lady and First Family went on vacation.

13 A That's right. Yes.

14 Q You testified August 17 was your last day  
15 at the White House?

16 A That's right.

17 Q So it was approximately two days after the  
18 First Family left for vacation?

19 A That's right.

20 Q So for the period of the month before you  
21 left the White House, so that places it more on your  
22 own personal calendar, I take it that at this time

1 you were no longer living in the White House  
2 residence?

3 A That's right.

4 Q Did you have occasion to come to the White  
5 House residence on a regular basis, however?

6 A During that time?

7 Q Yes.

8 A Yes.

9 Q For what reason were you in the White House  
10 residence?

11 A I was helping Mrs. Clinton to type her  
12 book.

13 Q And this book would be "It Takes a  
14 Village"?

15 A Yes.

16 MR. TISDALE: Just to educate me, I take it  
17 now we have moved to the items under 1(b)(3)? I  
18 didn't want to get lost.

19 MR. DINH: I must say I am impressed that  
20 you are following along in the Resolution.

21 MR. TISDALE: I don't know much about it.  
22 I have to see what I am doing.

1 BY MR. DINH:

2 Q Do you recall approximately how often you  
3 would be in the residence during this period of  
4 time? Was it like every day?

5 A By the end, by the middle of August, it was  
6 every day.

7 Q Okay.

8 A At the very -- in the middle of July, I  
9 don't recall if it was every day, it was probably at  
10 least every other day.

11 Q And let me direct your attention now back  
12 to Dickey Exhibit 1 which again, to remind you, is  
13 the schematic of the third floor of the White House  
14 residence. And let me direct your attention to the  
15 upper southwest corner of that diagram, that the  
16 upper top left of that diagram.

17 And I have highlighted for your benefit  
18 several rooms there; I have highlighted room 323, I  
19 have highlighted room 319A, 319, and then 320 through  
20 322. Let me represent to you that we have -- we  
21 understand that room 319A is what's commonly referred  
22 to as the book room.

1 And room 319 --

2 MR. TISDALE: Just a minute, you can't just  
3 nod your head. You have to say something so she can  
4 get it.

5 THE WITNESS: I didn't think I was  
6 answering a question.

7 MR. TISDALE: All right.

8 BY MR. DINH:

9 Q And room 319 is a closet that we understand  
10 to be containing table linen. And since this is an  
11 old schematic, as I told you before it dates back to  
12 the Truman Administration, I believe, that we  
13 understand that the suite of rooms that is  
14 represented here as rooms 320, 321 and 322 are simply  
15 one room, the walls between those three rooms have  
16 been removed. And that is -- that entire suite  
17 reflected in the upper left-hand corner of your  
18 diagram, the southwest corner of the third floor, is  
19 what is now the exercise room?

20 MR. PORTNOY: That's the upper right-hand  
21 corner of the diagram?

22 MR. DINH: I'm sorry, upper right-hand

1 corner. I am just dyslexic, among other faults.

2 BY MR. DINH:

3 Q And do you generally recall the layout of  
4 these rooms as they are represented here on the  
5 diagram?

6 A Yes.

7 Q Can you tell me what -- who used room 323  
8 during July and August of 1995?

9 A Who used it?

10 Q Yes, I understand that's an office.

11 A It is Mrs. Clinton's office.

12 Q It is Mrs. Clinton's office. Was she in  
13 there working on the book at this time?

14 A Yes.

15 Q Were the people who were helping her with  
16 the book, that is Barbara Feinman was working in the  
17 office at the time?

18 A Yes.

19 Q Where were you working at the time,  
20 Mrs. Dickey?

21 A Also room 323.

22 Q Were you at the same desk as Mrs. Clinton?

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1 A No.

2 Q Were you at the same desk as Ms. Feinman?

3 A Mrs. Fein -- Ms. Feinman and I were not  
4 normally in the room at the same time. If we were,  
5 we were not -- we were using two separate computers.

6 Q You were using two separate computers. She  
7 had a computer on her desk?

8 A She brought a laptop.

9 Q And you had a permanent computer that was  
10 there in the room?

11 A That's right.

12 Q So there are three desks in the room?

13 A No, there are two desks in the room.

14 Q There are two desks in the room. What  
15 happens when you and Ms. Feinman were both there at  
16 the same time?

17 A One of us would type on the couch, on our  
18 lap.

19 Q If I can ask you to take my pen here, and  
20 it's a red pen, if you can draw in for me your  
21 approximation as to your recollection as to where the  
22 two desks are, and mark the desk that Mrs. Clinton

1 used as A.  
2 A Do you want me to draw the desks?  
3 Q Yes. Draw a box as to where you recollect  
4 they are or they were in July and August of 1993.  
5 A (Witness complied.)  
6 That's Mrs. Clinton's desk.  
7 Q You can mark that with the letter A.  
8 A (Witness complied.)  
9 Q And can you draw the other desk?  
10 A (Witness complied.)  
11 And that's B.  
12 Q Thank you. That was not against the wall?  
13 A No.  
14 MR. TISDALE: That's B you are talking  
15 about.  
16 MR. DINH: Yes, I'm sorry.  
17 BY MR. DINH:  
18 Q Were there chairs on either side of that  
19 oval desk B?  
20 A No.  
21 Q There was just one chair on one side?  
22 A On one side. There was also a chair on the

1 end here.  
2 Q "On the end" being the north end?  
3 A Just a sitting chair. It wasn't a working  
4 chair.  
5 Q And is the -- where is the computer that  
6 you would use to type Mrs. Clinton's book located?  
7 A In the middle of the desk on the east side.  
8 MR. TISDALE: Which desk?  
9 BY MR. DINH:  
10 Q Of the B desk?  
11 A Of the B desk.  
12 Q And I see you placed an asterisk on the  
13 diagram reflecting where the computer was?  
14 A That's right.  
15 Q Was this the same table that Ms. Feinman  
16 would use from time to time --  
17 A From time to time.  
18 Q -- with you when you were both there, then  
19 one of you would be using the laptop on the couch?  
20 A That's right.  
21 Q During this relevant period of time, that  
22 is from July 15 through August 15, 1995, did you work



1 at all in the book room, that is room 319A on the  
2 diagram in front of you?

3 A No.

4 Q Did you have occasion to come into the book  
5 room?

6 A Not during that period of time.

7 Q In July and August of 1995?

8 A No.

9 Q Did you ever enter the book room in July  
10 and August 1995?

11 A No.

12 Q You had not used the computer in room 319A,  
13 for example, to type -- to help with the typing?

14 A I didn't know there was a computer in 319A.

15 Q I guess that pretty much answered the  
16 question.

17 A That's a no.

18 Q Stepping outside of this July and August  
19 1995 time period, can you tell me when the last time  
20 was that you recall entering the book room?

21 A No.

22 Q You don't. When you were a resident in the

1 White House, when you were living in room 301 and  
2 302, did you have occasion to come into the book  
3 room?

4 A Yes.

5 Q For what reason?

6 A Most of the time it would be to go to the  
7 exercise room.

8 Q To go to the exercise room, which, the  
9 entrance to which is from the book room?

10 A That's right.

11 Q Is that where my pen is right now  
12 indicating door number 355?

13 A Yes.

14 Q Other than using it as a bypass to the  
15 exercise room, did you have other reason to come into  
16 the book room?

17 A Yes.

18 Q What is that?

19 A When we first moved into the White House in  
20 January and February of 1993, I had helped to  
21 catalogue all of the Clintons' videos, and I had  
22 catalogued them at the governor's mansion. And so I

1 was responsible for getting them in the right place  
2 once we moved in.

3 Q Okay. And I take it those videos are in  
4 the book room?

5 A Some of them.

6 Q Some of them. And you said this project  
7 lasted from January and February of 1993?

8 A Yes.

9 Q Did you subsequently come into the book  
10 room for any other reason, other than bypassing --  
11 using it as a bypass to the exercise room?

12 A Only if Capricia Marshall was in there for  
13 some reason and I needed to talk to her.

14 MR. TISDALE: Can I ask -- make a  
15 clarification.

16 MR. DINH: Sure.

17 MR. TISDALE: You talk about a bypass to  
18 the exercise room. It looks like it is the only  
19 entrance from that book room.

20 THE WITNESS: You can go through the  
21 hallway.

22 MR. DINH: Using the book room as a bypass

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1 in order to --

2 MR. TISDALE: As a passageway?

3 MR. DINH: As a passageway.

4 MR. TISDALE: I didn't know that.

5 THE WITNESS: You have to go through the  
6 book room to get there either way.

7 MR. DINH: I didn't mean bypass, I meant  
8 pass through. Immigrant English.

9 MR. TISDALE: I had not seen that.

10 BY MR. DINH:

11 Q I take it you would enter where my pen is  
12 now, which is door 342?

13 A Yes.

14 Q You walk two or three steps to get to the  
15 exercise room?

16 A That's right.

17 Q Did you come in there to borrow videos or  
18 anything like that?

19 A Maybe once or twice.

20 Q Once or twice, this is while you were at  
21 the residence?

22 A That's right.

1 Q Which of course ended in November of 1994?

2 A That's right.

3 Q Do you recall any occasion that you entered  
4 the book room after November of 1994?

5 A I don't remember.

6 Q Could it have happened but you just don't  
7 remember, or do you think that likely --

8 A More than likely it did not happen.

9 Q More than likely it did not happen, but you  
10 are certain you did not enter in July and August of  
11 last year?

12 A I am certain of that.

13 Q Did you have any -- do you remember whether  
14 you entered that room after you left the White House;  
15 that is, after August 17, 1995?

16 A No, I did not enter it.

17 Q Incidentally, have you been back to the  
18 White House residence since August 17, 1995?

19 A One time.

20 Q When was that?

21 A October of '95.

22 Q And you stated that during this period,

1 that is at the end of July and beginning of August,  
2 you were helping to type Mrs. Clinton's book?

3 A That's right.

4 Q And that was your reason for coming into  
5 the White House residence during this relevant  
6 period?

7 A That's right.

8 Q Was there any other reason why you would  
9 have gone to the White House residence?

10 A To visit Chelsea.

11 Q Any other reason?

12 A Not that I recall.

13 Q What I am going to do now, Ms. Dickey, is  
14 show you a series of records that I understand has  
15 been kept by either the Secret Service or the White  
16 House ushers office, of entries and exits into the  
17 White House residence. And I do so in the hope that  
18 if you have any recollection as to your specific  
19 reason for being in the White House residence at  
20 these particular times, that I may elicit that  
21 recollection.

22 A Okay.

1 Q Let me start first with what is labeled as  
2 Exhibit S 020053, and it is labeled "F-1 movement  
3 log" for Sunday, July 23, 1995. And let me just  
4 explain to you that these were produced to us with  
5 the representation that they are the records kept by  
6 the United States Secret Service at the F-1 post,  
7 which is located right outside the elevator on the  
8 ground floor.

9 A That's right.

10 Q Do you remember that Secret Service post?

11 A Yes.

12 Q Usually, I take it, when you pass that  
13 post, the Secret Service officer would not stop you  
14 and ask you who you are?

15 A That's right.

16 Q He or she would know who you are?

17 A That's right.

18 Q Okay. And the record -- if I can direct  
19 your attention to the last line of that record, it  
20 indicates that Helen Dickey went up at 1344 -- that's  
21 military time for 1:44 p.m. -- to the third floor and  
22 down at 1915, which is 7:15 p.m.

1 A That's right.

2 Q Do you remember this entry specifically?

3 A No.

4 Q Would this have been -- actually, back up.

5 When you were doing the typing for  
6 Mrs. Clinton at what time of day were you doing that?

7 A It depended on if it was a weekday or  
8 weekend.

9 Q If it was a weekday, was it generally at  
10 night?

11 A Yes.

12 Q Because you would be working in your  
13 position as a database administrator during the day?

14 A That's right.

15 Q During the weekend, however, you would also  
16 do work during the day?

17 A That's right.

18 Q Is this entry and exit record consistent  
19 with your recollection that you may have been using  
20 this time to help Mrs. Clinton type her book?

21 A Yes.

22 Q That is, you would spend approximately six



1 hours on a Sunday in order to help her type the book?

2 A That would be ordinary.

3 Q That would be ordinary, okay. And you  
4 don't recall any other reason for you being in the  
5 third floor at this time?

6 A No.

7 Q And I take it during that time, you went  
8 into room 323 in order to do your typing?

9 A That's right.

10 Q And you did not enter either the exercise  
11 room or the book room?

12 A That's right.

13 Q Let me show you now the same log but for a  
14 different day. And this record is labeled S 020048,  
15 and this is for Thursday, July 27, 1995. Let me  
16 direct you to the next to last line of the page I  
17 have placed in front of you, and that has the record  
18 that Helen Dickey went up at 1742, which is 5:42, and  
19 down 1850, which is 6:50, again to the third floor.

20 Is this consistent with an entry or exit  
21 for the purpose of typing Mrs. Clinton's book?

22 A Yes.

---

1 Q Do you specifically recall this particular  
2 entry?

3 A No.

4 Q This would just be normal; after work, you  
5 would come over and help her out with an hour's worth  
6 of typing?

7 A Yes.

8 Q I take it you went to 323 to do this work  
9 on this day?

10 A That's right.

11 Q You did not enter 319A or the exercise  
12 room?

13 A That's right.

14 Q Let me direct your attention now to record  
15 S 3020045, and it is the same log for the very next  
16 day, Friday July 28, 1995. And again, if I can  
17 direct your attention to the next to last line of  
18 that record, it indicates that you entered at 11:52  
19 in the morning and came down at 12:22. Do you  
20 remember this approximately half-hour entry and exit?

21 A No, I don't remember it.

22 Q Would you have any other reason to come

1 into the White House on this particular day, Friday,  
2 July 28, 1995, other than visiting Chelsea or typing  
3 the book?

4 A No, it was for the book. Sometimes they  
5 had computer problems and they would call me up from  
6 work.

7 Q Okay. And you are somewhat of a computer  
8 expert?

9 A Well, I wouldn't say that.

10 MR. PORTNOY: The record should reflect  
11 that the log that the witness is looking at shows  
12 that Chelsea Clinton exited the residence at  
13 precisely the same time the witness did, so this also  
14 could be consistent with her testimony that she  
15 occasionally went to the residence to visit Chelsea  
16 Clinton.

17 BY MR. DINH:

18 Q Let me ask you this. Do you remember  
19 coming down to see Chelsea one day?

20 A I don't know if it was in that time period,  
21 but I know that we went to lunch one day before I  
22 left.

1 Q Okay. But you don't specifically recall  
2 whether this was the time?

3 A I don't.

4 Q Do you recall approximately how long of a  
5 lunch it was?

6 A No.

7 Q Less than an hour, more than an hour?

8 A More than an hour.

9 Q And I take it you don't have any specific  
10 recollection of entering room 319A on this particular  
11 visit?

12 A That's right.

13 Q Or the exercise room?

14 A That's right.

15 Q Let me direct your attention now to the  
16 record labeled S 020041, same log for the following  
17 Monday, that is August 1, 1995.

18 And let me direct your attention to the  
19 second handwritten line on that record, and it marks  
20 that Ms. Helen Dickey came in 1720, that is 5:20 and  
21 left at 2200, which is 10:00, and the destination was  
22 the third floor. Do you recall this specific

1 instance when you entered?

2 A No, I don't.

3 Q Would it be consistent with an entry for  
4 the purpose of typing Mrs. Clinton's book?

5 A Yes.

6 Q That is you left work approximately 5:20  
7 and then came up here in order to help her out for  
8 several hours, to type the book?

9 A That's right.

10 Q And again, you did this work in room 323?

11 A Yes.

12 Q Was there any reason that you can think of  
13 that you went into room 319A or the exercise room  
14 during this particular visit?

15 A No.

16 Q This is the next day, and -- the record I  
17 am referring to is S 020039, and I direct your  
18 attention to the sixth handwritten line on that  
19 record where I have my pen right here (indicating),  
20 and that indicates that Helen Dickey entered at 10:47  
21 in the morning and left at 11:20, also that morning,  
22 an approximately 30-minute visit to the third floor.

1 Do you remember this particular entry?

2 A No. I don't.

3 Q You don't; okay. Approximately how many  
4 times during this period were you called to the White  
5 House on account of computer problems, if you can  
6 recall?

7 A I would guess once a week.

8 Q Once a week. Who would be having these  
9 problems with the computer so often?

10 A Barbara Feinman might have a problem,  
11 that -- it wasn't really a computer problem; it  
12 was -- she couldn't -- it was her own problem that  
13 she couldn't figure out the computer; it was not a  
14 computer -- the computer was not acting up.

15 Q More an instructional problem?

16 A More an instructional problem. There also  
17 might be an occasion where Barbara was not around,  
18 and Mrs. Clinton needed something typed very quickly.

19 Q I take it Mrs. Clinton did not use the  
20 computer herself?

21 A That's right.

22 MR. PORTNOY: Off the record.

1 (Discussion off the record.)

2 MR. DINH: Back on the record.

3 BY MR. DINH:

4 Q Ms. Dickey, before we went off the record,  
5 I was showing you a log labeled S 020039 which you  
6 still have in front of you, which reflects the log  
7 for Tuesday, August 1, 1995. And we already explored  
8 the entry to which I was directing your attention,  
9 that is when you came in at 10:47 and 11:20.

10 I would like to focus your attention still  
11 to the same day and place another sheet of records  
12 before you, and this one is labeled S 020041.

13 A May I ask a question?

14 Q Yes.

15 A Why does one say Monday and one say  
16 Tuesday?

17 MR. PORTNOY: I was about to point that  
18 out.

19 MR. DINH: That is what I would like to  
20 explore with you.

21 BY MR. DINH:

22 Q This record reflects that it was -- the

1 date is August 1st, 1995, however the day though that  
2 is handwritten above it is Monday instead of  
3 Tuesday. And let me direct -- keeping that in mind  
4 and this, of course, is marked page 2 of two. And  
5 keeping that in mind, let me direct your attention to  
6 the second handwritten entry on that record, where it  
7 records that Helen Dickey entered at 5:20 and exited  
8 at 10:00, again going to the third floor.

9 Do you recall whether you -- now that you  
10 have this in front of you, whether this sequence of  
11 entries and exits happened on the same day?

12 A I have no idea.

13 Q Do you recall on August 1, 1995, entering  
14 at approximately 5:20 and leaving at 10:00?

15 A No.

16 Q Would that be consistent with your practice  
17 of coming there after work and helping Mrs. Clinton  
18 type her book?

19 A Yes.

20 Q But you have no -- you have no specific  
21 recollection, as to this particular day, of coming  
22 into the White House and leaving and coming back



1 later?

2 A Right.

3 MR. TISDALE: It might help if you could  
4 show her page 1 of the two there.

5 MR. DINH: Well, I actually believe that  
6 this was page 1, this being S 020039, because of the  
7 seemingly ambiguous labeling. One can never be sure,  
8 of course, but --

9 THE WITNESS: I would -- I don't know if I  
10 should say anything, but I would have to disagree  
11 with that, only because it doesn't go all the way to  
12 the bottom.

13 MR. DINH: Okay. Very observant. Thank  
14 you for pointing that out. You were pointing out S  
15 020039 did not go to the bottom, that is the log was  
16 not filled in all the way to the end.

17 THE WITNESS: Yes. You showed me one  
18 earlier that was stapled together and it continued on  
19 the next page because all the lines had been used up.

20 MR. PORTNOY: Can we clarify whether you  
21 have any particular knowledge of the Secret Service  
22 recordkeeping procedures?

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1 THE WITNESS: No, I don't.

2 MR. PORTNOY: You are making an observation  
3 based on the face of the document rather than on any  
4 particular knowledge that you --

5 THE WITNESS: Based on the face of the  
6 document and the two-page document I was shown  
7 earlier, yes.

8 MR. PORTNOY: But the observation you made  
9 is based on the observation you have made of the  
10 document rather than any information you have about  
11 Secret Service procedures or practices?

12 THE WITNESS: That's right.

13 MR. TISDALE: It is possible that since  
14 S 020039 shows it is redacted, it may be the later  
15 entries were removed; I don't know.

16 BY MR. DINH:

17 Q Actually let me represent to you that  
18 August 1st is indeed a Tuesday, and not a Monday.

19 A Okay.

20 Q And that -- while that does not solve our  
21 ambiguity, it establishes a point of reference with  
22 respect to these two particular days.

1 A Can I add another observation?

2 Q Sure.

3 A If this -- if I had gone up at 1047 and  
4 come down 1120, my name would have been on there and  
5 they would have added the additional times I went  
6 upstairs, and this shows a separate entry. That's  
7 another observation.

8 Q Again, that observation is based on the  
9 practice reflected by the records and not on any  
10 independent knowledge you have of what the Secret  
11 Service officers do?

12 A That observation is just from looking at  
13 these two sheets of paper.

14 MR. PORTNOY: That needs to be clear.

15 BY MR. DINH:

16 Q As a matter of fact, have you ever seen a  
17 log like this?

18 A Yes, I have.

19 Q Where have you seen them?

20 A At F-1.

21 Q At F-1, you see the Secret Service officers  
22 filling in a log like this?

1 A I do. If they didn't see me downstairs, I  
2 made it a point to let them know when I came down  
3 sometimes.

4 MR. PORTNOY: These documents are entitled  
5 "F-1 movement log," so I take it F-1 is the desk or  
6 checkpoint.

7 THE WITNESS: It is the Secret Service post  
8 at the bottom of the elevator and stairs on the  
9 ground floor.

10 BY MR. DINH:

11 Q The reason why I wanted to be clear on that  
12 is that we have records indicating that on Tuesday,  
13 August 1st, you had lunch with one of Chelsea's  
14 friends. And let me show you that record, and this,  
15 let me represent to you, is kept by the ushers  
16 office, and I believe it is kept by the duty usher in  
17 the state floor duty officer desk, I believe they  
18 call that F-5. And this is the daily log of  
19 activities for the White House and for the First  
20 Family, in particular.

21 Let me direct your attention to the entry  
22 labeled 12:20, and it says "lunch for" -- has been

1 redacted but substituted with "Chelsea and friend,"  
2 and then the rest of the record reads Helen Dickey.  
3 Do you specifically recall this lunch with the friend  
4 of Chelsea?

5 A Yes, I do.

6 MR. PORTNOY: The Committee has agreed that  
7 friends of Chelsea Clinton visiting the residence  
8 need not be identified in the record and that's the  
9 purpose of the redaction. I will ask you not to  
10 state the name of that friend in the record, unless  
11 Mr. Dinh has a specific need to know, in order to  
12 protect the privacy of that child.

13 MR. DINH: And if I have a need to know, I  
14 will ask you the question.

15 MR. PORTNOY: Exactly.

16 BY MR. DINH:

17 Q You do recall this lunch?

18 A Yes, I do.

19 Q Does that help your recollection with  
20 respect to our semi-mystery here with respect to the  
21 two pages, ambiguous pages of F-1 movement logs?

22 A No.

1 Q Do you recall whether you entered the White  
2 House earlier that day, prior to having lunch with  
3 Chelsea's friends?

4 A Earlier which day?

5 Q Earlier on August 1st, 1995, do you recall  
6 approximately when you arrived at the White House  
7 residence in order to have lunch with Chelsea's  
8 friend?

9 A No, it was around noon.

10 Q Did you leave after lunch?

11 A As far as I remember.

12 Q Did you come back that night in order to  
13 work some on Mrs. Clinton's book?

14 A I don't recall.

15 Q You don't recall. Let me direct your  
16 attention now to exhibit labeled S --

17 MR. TISDALE: There is no label.

18 BY MR. DINH:

19 Q S 020037. Actually I want to direct you to  
20 the prior page, S 020036, which reflects the log for  
21 Thursday, August 3, 1995. And if I can direct your  
22 attention to the seventh entry, seventh handwritten

1 entry where it marks that Helen Dickey entered 11:00  
2 and left at 12:45. Do you remember this particular  
3 entry and exit?

4 A No.

5 Q It was approximately two days after your  
6 lunch with Chelsea's friend?

7 A I don't remember it.

8 Q Do you recall getting a computer question  
9 from either Ms. Feinman or Mrs. Clinton on that day?

10 A No, I don't.

11 Q So you don't recall why you went to the  
12 White House that day?

13 A That's right.

14 Q Can you tell me whether you recall entering  
15 room 319A on that particular day?

16 A No, I did not.

17 Q You did not enter?

18 A No.

19 Q Or the exercise room during that period?

20 A No.

21 MR. PORTNOY: I believe the witness  
22 testified that, to the best of her recollection, she

1 entered neither room 319A nor the exercise room at  
2 any time in July or August of 1995.

3 MR. DINH: Thank you very much,  
4 Mr. Portnoy. I am simply asking more specific  
5 questions in order to hopefully refresh Ms. Dickey's  
6 recollection of any specific instances where that may  
7 have happened, by going through the individual logs.

8 MR. PORTNOY: Off the record.

9 (Discussion off the record.)

10 BY MR. DINH:

11 Q Let me direct your attention now to  
12 document labeled S 020034, and direct your attention  
13 to the third handwritten entry on that day, and this  
14 is for Saturday, August 5, 1995. And it was marked  
15 Helen Dickey end, I believe it's a misspelling,  
16 entered 1050 and exited 1815 on this particular  
17 Saturday. Would this have been consistent with you  
18 doing work for Mrs. Clinton in the form of typing up  
19 her drafts for the books?

20 A Yes, it would be consistent.

21 Q Do you have any specific recollection of  
22 this particular weekend day?



1 A No, I do not.

2 Q And I take it you did not enter 319A or the  
3 exercise room on that day?

4 A That's right.

5 Q Let me direct your attention now to the log  
6 for the very next day which is labeled S 020033, and  
7 on the fourth entry from the top where it is typed in  
8 Helen Dickey entering 1000 and leaving at 1246,  
9 coming back up at 1615 which is 4:15 and then leaving  
10 at 7:22. This is a more specific pattern of exits  
11 and entries on that Sunday.

12 Do you recall this particular day, where  
13 you came in for a couple of hours and then left, and  
14 then, later on in the afternoon, came back to the  
15 White House residence?

16 A Maybe. Maybe.

17 Q Okay. Do you recall generally what you --  
18 what was the purpose of your two visits to the White  
19 House on that day?

20 A It was for typing.

21 Q It was for typing both times?

22 A Yes.

1 Q And you did this typing in room 323?

2 A Yes.

3 Q And did you not enter room 319A or the  
4 exercise room during these two particular periods?

5 A That's right.

6 MR. PORTNOY: The record should also  
7 reflect that S 020021, which is the usher's log from  
8 Sunday August 6th, at least for the latter entry and  
9 exit shows at 4:20 p.m. Ms. Dickey went to the third  
10 floor computer room which would be, I believe,  
11 consistent with her recollection that she was  
12 typing.

13 THE WITNESS: That's right.

14 BY MR. DINH:

15 Q Do you know to what the usher was referring  
16 with the designation computer room?

17 A Yes.

18 Q Is that room 323?

19 A Yes.

20 Q Is that sometimes called the computer room?

21 A Yes.

22 Q Let me direct your attention now to the

1 Thursday following that Sunday, Thursday of that  
2 week, which is August 10, 1995, and direct your  
3 attention to the next to last entry there, which  
4 shows that Helen Dickey entered at 1900 and exited at  
5 2240, and her destination being the third floor  
6 (indicating). Again, do you recall this particular  
7 entry and exit?

8 A No.

9 Q You entered at 7:00 and you left around  
10 10:40. Would this have been consistent with your  
11 typing work for Mrs. Clinton?

12 A Yes.

13 Q And I take it you did that work in room  
14 323?

15 A That's right.

16 Q And you have no recollection of entering  
17 room 319A or the exercise room?

18 A That's right.

19 Q Let me refer you now to the Saturday of  
20 that week, Saturday August 12, 1995, and ask you to  
21 take a look at the White House usher's records, which  
22 I had -- a version of which I had shown you before.

1 And this is the log for Saturday, August 12, 1995 and  
2 it is labeled S 020322. And at the -- if I can  
3 direct your attention to the entry at 12:10, Helen  
4 Dickey to the third floor and entry, 2:55, Helen  
5 Dickey down, which indicates you were on the third  
6 floor a little over 2-1/2 hours.

7 Do you recall this particular entry and  
8 exit?

9 A No, I don't.

10 Q Would it have been consistent with you  
11 doing typing work for Mrs. Clinton?

12 A Yes.

13 Q Because this was a Saturday, you would do  
14 it during the day?

15 A That's right.

16 Q And I take it during this particular visit  
17 you did not enter the room 319A or the exercise room?

18 A That's right.

19 Q Let me direct you back now to the F-1  
20 movement log, that is a Secret Service movement log  
21 kept at F-1 station by the elevator, and ask you  
22 to -- this one is for Sunday, August 13, 1995, the

1 very next day, and it is labeled S 020326, and ask  
2 you to look at the last entry there which indicates  
3 that Helen Dickey entered 1412, which is 12:12 in the  
4 afternoon, and left at 1722, which is 5:22, in the  
5 early evening. Do you recall this specifically?

6 A No.

7 Q Did you have any reason to go to the White  
8 House residence, to the second floor of the White  
9 House residence?

10 A I don't remember.

11 Q You don't remember. But these times would  
12 have been consistent with you typing -- performing  
13 some typing work for Mrs. Clinton?

14 A The times would be consistent, yes.

15 Q Did you ever perform any typing work for  
16 Mrs. Clinton on the second floor?

17 A Not for Mrs. Clinton; I did for Chelsea.

18 Q I'm sorry?

19 A I did for Chelsea. Not during this time  
20 period.

21 Q Not during this time period, okay.

22 MR. PORTNOY: Again, the record should

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1 reflect the usher's log differs slightly from the  
2 Secret Service log in that Ms. Dickey actually went  
3 to the third floor at 2:10 p.m. and came down at 5:20  
4 p.m. so it may be that the Secret Service log is  
5 inaccurate in this respect.

6 BY MR. DINH:

7 Q You were going to say, Ms. Dickey?

8 A Sometimes the Secret Service -- the  
9 residence between the second and third floor --

10 Q Because there is no monitoring post between  
11 the second and third floor so entering the second  
12 floor would give you access to the third floor?

13 A Yes.

14 Q So for security purposes they were  
15 interchangeable?

16 A That's correct.

17 Q Let me direct your attention to a log  
18 labeled S 020325 and this was a log for August 14,  
19 1995 -- to put in it context, it is the Monday prior  
20 to Mrs. Clinton leaving for Wyoming. Do you recall  
21 entering the residence on that night, the night  
22 before the First Family left for a vacation in

1 Wyoming?

2 A No.

3 Q Let me direct your attention to the third  
4 handwritten entry from the bottom and that indicates  
5 that Helen Dickey entered 1700 and exited 1930, about  
6 2-1/2 hours. Do you recall this particular entry?

7 A Maybe.

8 Q Did you help Chelsea pack?

9 A No.

10 Q When you say maybe, what were you talking  
11 about?

12 A I think that -- I think that that was the  
13 time that Barbara Feinman and I were making any  
14 final -- they knew that after the next day they were  
15 not going to see me again, so I was putting to bed  
16 all of the things that I needed to let Barbara know.

17 Q Okay.

18 A Putting everything on disks, everything off  
19 of the hard drive computer.

20 Q Right. Right. Did you not go with the  
21 First Family to Wyoming?

22 A I did not.

1 Q But Ms. Feinman did?

2 A She did.

3 Q That's why you needed to hand off whatever  
4 work you were doing to Ms. Feinman?

5 A Yes, that's right.

6 Q Did Ms. Feinman leave before you did that  
7 night?

8 A I don't remember.

9 Q You don't recall. Does this record -- is  
10 this record consistent with your recollection of that  
11 event; that is, you were trying to save everything on  
12 disk for Ms. Feinman?

13 A Yes.

14 Q Do you recall whether did you anything else  
15 that night?

16 A I may have typed.

17 Q I mean besides the typing and the general  
18 work on the book.

19 A No.

20 Q You did not help Chelsea pack or did you  
21 not help the First Family pack, or anything like  
22 that?



- 1 A No.
- 2 Q Do you recall whether during this
- 3 particular night you entered 319A or the exercise
- 4 room?
- 5 A No, I did not.
- 6 Q Do you know who Maryann D-e-l-a-r-i-v-e-s
- 7 is?
- 8 A No.
- 9 Q Do you know who Steve Gordin is?
- 10 A No.
- 11 Q Do you know who Bill Knapp is?
- 12 A No.
- 13 Q Do you know who Ian McWilliams is?
- 14 A No.
- 15 Q Do you know who Tom Oaks is?
- 16 A No.
- 17 Q Do you know who Mark Paris is?
- 18 A No.
- 19 Q Do you know who Lisa Perez is?
- 20 A No.
- 21 Q Do you know who Billy Perry is?
- 22 A No.

- 1 Q Do you know who April Springfield is?
- 2 A Yes.
- 3 Q Was she an intern in the social office with
- 4 you at one point?
- 5 A She was an intern; I was not an intern.
- 6 She was an intern.
- 7 Q She was an intern in the social office; I
- 8 apologize.
- 9 A Yes.
- 10 Q Do you know when approximately she was an
- 11 intern?
- 12 A My recollection is that she began in the
- 13 summer of '94.
- 14 Q Okay. And did she -- did she stay in that
- 15 post through August of 1995?
- 16 A As far as I remember.
- 17 Q Okay. Do you recall if she also helped
- 18 Mrs. Clinton with any typing?
- 19 A Yes, she did.
- 20 Q Do you recall, was she ever there at the
- 21 same time you were there helping Mrs. Clinton with
- 22 the typing?

1 A Yes.

2 Q When you were both there together, where  
3 would you work?

4 A One of us would have the laptop on our  
5 laps.

6 Q The laptop, this is Barbara Feinman's  
7 laptop?

8 A Mrs. Clinton also had a laptop so sometimes  
9 we had three of them going.

10 Q But at all these times you were working in  
11 room 323?

12 A Yes.

13 Q At any time did Ms. Springfield use the  
14 computer in room 319A to do the typing that you  
15 recall?

16 A I don't know.

17 Q You don't know or no, you don't?

18 A I don't know.

19 Q The times that you were there together with  
20 Ms. Springfield, did she ever use the computer in  
21 room 319A?

22 A I don't know.

1 Q Do you know who Sheila Martinstone is?

2 A No.

3 Q Do you know who Elena Torika is?

4 A No.

5 Q Let me ask you to broaden your attention to  
6 the time period covering the entire time you were in  
7 the White House, that is from January 1993 through  
8 August 17 of last year. During this period, did you  
9 have any conversations with anyone in the White House  
10 regarding Whitewater Development Corporation?

11 A No.

12 Q Madison Guaranty Savings & Loan  
13 Association?

14 A No.

15 Q Did you have any conversations with anyone  
16 in the White House in January 1993 through August 1995  
17 about Capital Management Services?

18 A No.

19 Q About Seth Ward?

20 A No.

21 Q About David Hale?

22 A No.

1 Q Have you ever handled any documents  
2 relating to the Rose Law Firm?

3 A Not that I know of.

4 Q Have you ever had any discussions with  
5 anyone in the White House relating to the Rose Law  
6 Firm?

7 A No, not that I know of.

8 Q Have you handled any documents that you  
9 know of that were the Rose Law Firm billing record?

10 A Not that I know of.

11 Q Did you have any discussions with anyone in  
12 the White House regarding the Rose Law Firm billing  
13 records?

14 A Not that I know of.

15 Q Let me direct your attention now to the  
16 stack of documents which I have in my hand and they  
17 are labeled DKS N 028928 through DKS N 029043. And let  
18 me describe them briefly to you before I ask you to  
19 study them. They are a sheaf of documents  
20 approximately one inch thick, measuring approximately  
21 11 inches by 17 inches and they appear to be  
22 photocopies of computer printout, the top of it says

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1 Rose Law Firm client billing and payment history.

2 And going through, there are some other  
3 sheets in the stack of documents which have -- which  
4 are measuring 8-1/2 by 11 and some of these  
5 photocopies are color copies, and those indicate that  
6 there have been handwriting on them in red ink. And  
7 let me ask you to study those for a moment briefly.

8 MR. PORTNOY: The record should reflect at  
9 this point the documents Mr. Dinh has handed the  
10 witness are in fact the copy that was provided to the  
11 Committee by Mr. Kendall; is that correct?

12 MR. DINH: That is correct. These are  
13 actually the actual copy.

14 (Pause.)

15 BY MR. DINH:

16 Q Have you had a chance to study the records  
17 I've described to you earlier?

18 A Yes, I have.

19 Q Let me ask you, now that you have had a  
20 chance to study them, have you ever seen these  
21 records before?

22 A I don't remember ever seeing these records.

1 Q Have you seen any records similar to this  
2 at the White House? And by similar, I mean a sheaf  
3 of paper, one inch thick, measuring approximately 11  
4 by 17 inches.

5 A No.

6 Q You have never seen this in room 323?

7 A No.

8 Q Or on the few occasions that you were in  
9 room 319A?

10 A No.

11 Q And I take it then you have never handled  
12 or filed any records like this?

13 A No, that doesn't look familiar to me at  
14 all.

15 Q Not even during the campaign or while you  
16 were at the governor's mansion?

17 A No.

18 MR. DINH: I have nothing further. Thank  
19 you.

20 EXAMINATION

21 BY MR. PORTNOY:

22 Q My name is Jim Portnoy and I am counsel for

1 the Minority and I have very few questions.

2 You spoke at some length about events of  
3 July 20, 1993, the night Mr. Foster died?

4 A Yes.

5 Q You were asked about the phone call you  
6 placed to the governor's mansion in Arkansas?

7 A Yes.

8 Q What is your best estimate of the time at  
9 which you placed that call?

10 A 10:30.

11 Q You are certain you placed the call after  
12 the beginning of the Larry King show?

13 A Positive.

14 Q Is it your recollection that you placed the  
15 call after the end of the Larry King show?

16 A Yes.

17 Q You spoke with the President in the kitchen  
18 before you placed the call or after?

19 A Before.

20 Q So you placed the call after you spoke with  
21 the President?

22 A That's right.



1 Q And the President was on the Larry King  
2 show that night?

3 A That's right.

4 Q The show was finished when you spoke with  
5 the President?

6 A Yes.

7 Q Have you ever told anyone that Mr. Foster  
8 killed himself in the White House parking lot?

9 A Never.

10 Q More specifically, have you ever said that  
11 to Roger Perry?

12 A Never.

13 Q Did you ever have reason to believe that  
14 Mr. Foster killed himself in the White House parking  
15 lot?

16 A Never.

17 Q Did you ever tell anyone that Mr. Foster  
18 had killed himself in his car?

19 A No.

20 Q Did you ever tell Mr. Perry that Mr. Foster  
21 had killed himself in his car?

22 A No, I did not.

1 Q Mr. Dinh showed you a sheaf of documents,  
2 which are billing records from the Rose Law Firm.  
3 You testified that you have never seen those  
4 documents before?

5 A That's right.

6 Q With the exception of anything you may have  
7 learned from the press or the media, do you have any  
8 information at all about how those billing records  
9 may have gotten to the White House?

10 A I do not.

11 Q Do you have any information at all as to  
12 how those billing records may have gotten to room  
13 319?

14 A I do not.

15 Q Do you have any information at all about  
16 Ms. Huber's discovery of the documents?

17 A I do not.

18 MR. PORTNOY: That's all I have. Thank you  
19 very much.

20 MR. DINH: Mr. Tisdale asked for some time  
21 in order to ask any clarifying questions in lieu of  
22 interrupting our deposition time. And both counsel

1 have acceded to that, with the usual proviso that we  
2 reserve our right to ask any follow-up questions if  
3 necessary.

4 EXAMINATION

5 BY MR. TISDALE:

6 Q I think the question was asked of you  
7 earlier, did you know anybody at the governor's  
8 mansion on the night that you called, which was July  
9 20th of 1993. And I am not sure I heard your answer,  
10 whether it was yes or no.

11 Did you know people other than Roger Perry  
12 who worked at the governor's mansion?

13 A Yes, I did.

14 Q Did you know the then-governor's wife  
15 personally?

16 A No.

17 Q What was the purpose of your call to  
18 Mr. Perry that night?

19 A The purpose of my call to Mr. Perry, or to  
20 anyone who had picked up the phone -- he happened to  
21 be the one that picked up the phone -- was to let the  
22 troopers -- I was friends with all the troopers that

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1 worked there -- to let everyone know because they all  
2 knew Mr. Foster. Some had known him for many years.  
3 And if he was so inclined, to let the governor know,  
4 but I did not call specifically to tell the  
5 governor.

6 Q Okay. With respect to the timing of the  
7 call to the governor's mansion that was answered by  
8 Mr. Perry that you made, are you certain that it was  
9 after the call you made to your father in Atlanta?

10 A Positive. And all the times that I have  
11 spoken of have been eastern times.

12 Q Let's move forward to July and August of  
13 1995 time.

14 When you were in room 323, doing the typing  
15 and work on the First Lady's book, what was -- the  
16 door into that from -- from that room into that main  
17 corridor hallway, was that normally open or closed?

18 A The door to Mrs. Clinton's office was  
19 normally closed.

20 Q As far as you know, it was always closed  
21 when you were in there?

22 A Yes.

1 Q How about the doors from that hallway into  
2 319A, were those doors normally open or closed based  
3 on the time you were in the White House?

4 A They were always closed.

5 Q Do they have an automatic close on them of  
6 some sort?

7 A They swing closed.

8 MR. DINH: I'm sorry, "they" being?

9 THE WITNESS: The two doors to 319A. They  
10 both have door closers on them.

11 BY MR. TISDALE:

12 Q Earlier you described what happened after  
13 John Fanning told you about Vince Foster's death and  
14 I think you described it as you fell apart. Can you  
15 give a little better description of what you did?

16 A I immediately started to cry. It was like  
17 he had told me that my father had been killed, and it  
18 was the biggest shock in the world.

19 Q Was it something -- was it the type of  
20 occurrence such as the assassination of John Kennedy  
21 or the explosion of the Challenger where you will  
22 always remember where you were when it happened?

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1 A Yes, I remember what I was doing and what I  
2 was wearing, yes.

3 MR. TISDALE: I don't have any other  
4 questions.

5 EXAMINATION

6 BY MR. DINH:

7 Q Actually let me just ask you two quick  
8 follow-up questions. Who were the other persons in  
9 the governor's mansion besides the troopers you  
10 knew? Anybody else besides the trooper?

11 A I knew all the troopers. I knew the  
12 kitchen staff. I knew everyone except the governor  
13 and his family.

14 Q So all the staff basically?

15 A Yes.

16 Q And those were the intended persons of your  
17 call, intended recipient of the news that you were  
18 conveying in those phone calls?

19 A That's right.

20 Q I take it that includes Larry Patterson and  
21 Lynn Davis?

22 A I don't know who Lynn Davis is.

1 Q Does that include Larry Patterson?

2 A Yes.

3 Q Actually if I can ask counsel to indulge,  
4 there was one line of questioning which I completely  
5 forgot to mention earlier.

6 Let me direct your attention to the room  
7 where you primarily worked in which is room 323. Do  
8 you recall if there was a closet in that room?

9 A I don't recall.

10 Q Okay, let me direct your attention to the  
11 door where my pen is, door number 359, which is the  
12 closet that is, if you were sitting at the table at  
13 which you usually work, there is a door that's just  
14 to the left of your table against the wall there. Do  
15 you recall seeing a door there?

16 A Yes, I know that there is a door there.

17 Q There is a door there. Have you ever seen  
18 that door opened?

19 A No.

20 Q Do you know if that door is kept locked?

21 A No.

22 Q You just simply noticed the door but never

1 had any occasion to investigate?

2 A That's right.

3 Q You do not know whether there is a closet  
4 back there or anything else?

5 A That's right.

6 Q Have you heard any discussions regarding  
7 any records or anything about the contents of that  
8 closet?

9 A No.

10 Q Or any of the records that were stored in  
11 the closet?

12 A No.

13 MR. DINH: Thank you very much, I have  
14 nothing further.

15 (Whereupon, at 4:45 p.m., the deposition  
16 was adjourned.)

17

18

19

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HELEN DICKEY

20

21

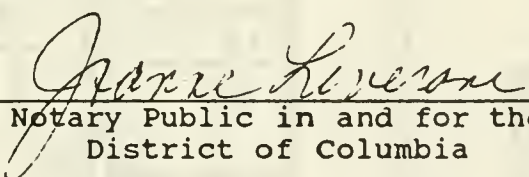
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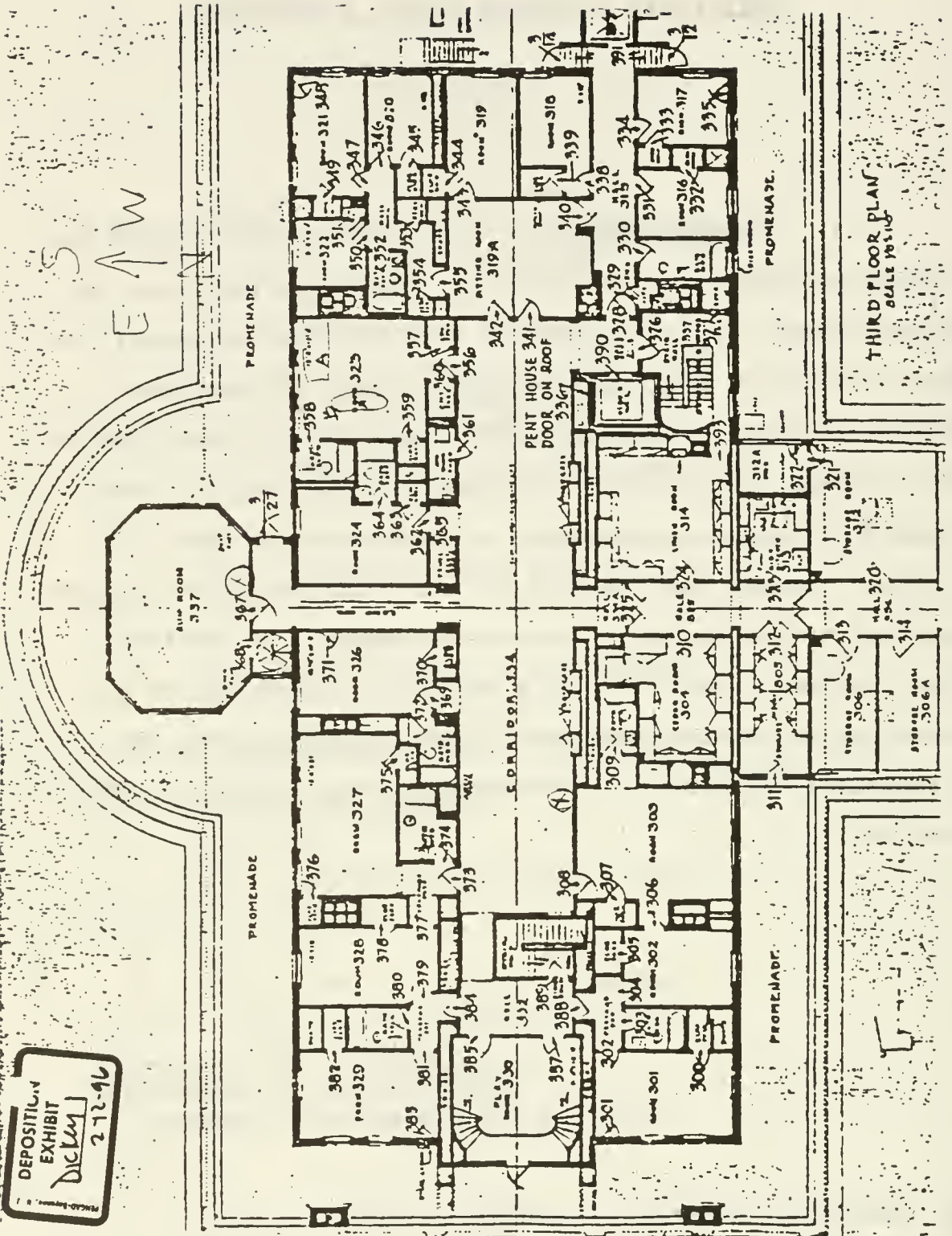
I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires

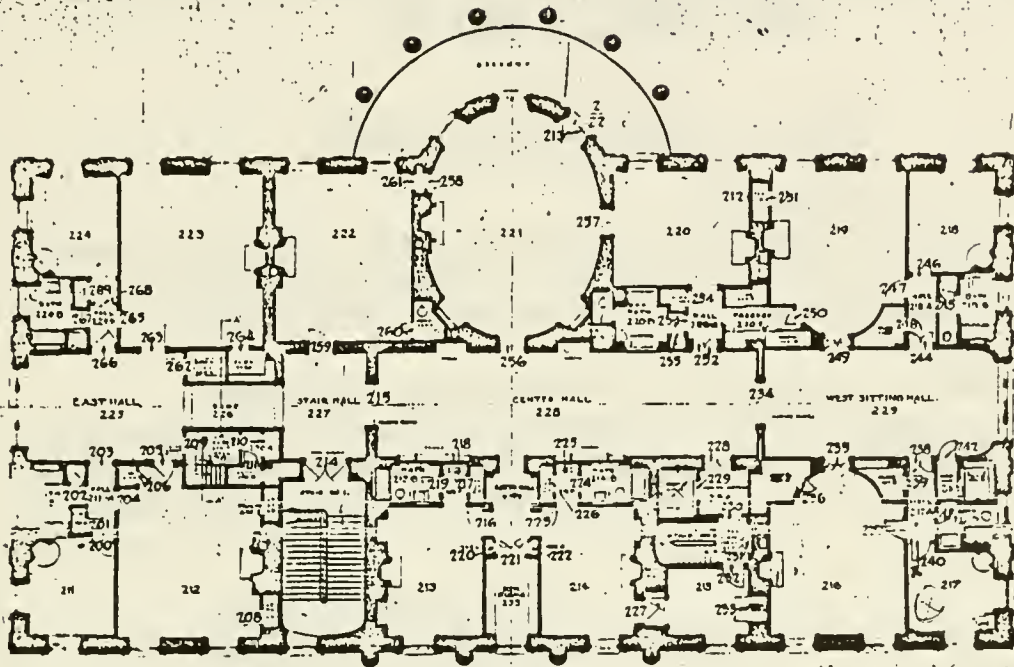
JULY 31, 2000

DEPOSITION  
EXHIBIT  
Dickey  
272-96

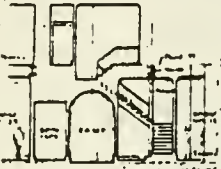


THIRD FLOOR PLAN  
SCALE 1/8" = 1'-0"

DEPOSITION  
EXHIBIT  
*DICKEN 2*  
2-12-46 *24*



SECOND FLOOR PLAN



Second Floor Plan





**DEPOSITION OF BARBARA L. FEINMAN  
IN RE: S. RES. 120**

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**MONDAY, FEBRUARY 12, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of BARBARA L. FEINMAN, called for examination pursuant to notice of deposition, at 9:37 a.m. in Room 534 of the Dirksen Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.  
Majority Associate Special Counsel  
GLENN F. IVEY, Esq.  
Minority Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

JAMES M. SPEARS, Esq.  
Gadsby & Hannah  
1747 Pennsylvania Avenue, NW  
Washington, DC 20006  
On behalf of the Deponent.

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Barbara L. Feinman	IDENTIFIED
DEPOSITION NUMBER	
Feinman Exhibit 1 .....	19, 2991

## P R O C E E D I N G S

MR. DINH: Ms. Feinman, as you know, my name is Viet Dinh, and I'm with the Majority staff of the Special Committee. And Mr. Glenn Ivey is also with us, he's of the Minority staff of the Committee.

This deposition is being conducted pursuant to Senate Resolution 120 which I just handed your counsel a copy of. The resolution establishes a Special Committee to investigate Whitewater Development Corporation and related matters to be administered by the Senate Banking Committee to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings & Loan Association and other related matters.

Section 1(b)(1) of Resolution 120 authorizes investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in an office of White House Deputy Counsel Vince Foster following his death."

Section 1(b)(3)(A) of Resolution 120

authorizes an investigation and public hearings into "the operations, solvency and regulation of Madison Guaranty Savings & Loan Association and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association."

Section 1(b)(3)(C) of Resolution 120 authorizes an investigation and public hearings into "the policies and practices of the RTC and the federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings & Loan Association."

I anticipate that these subjects will be the focus of today's deposition. Your testimony today will be taken under oath and a stenographer will prepare a record of questions and answers. This deposition is taken in advance of public hearings. We have not decided who will be among the witnesses of such hearings but as I advised counsel last week, if we do call you to testify at those hearings, I anticipate that the likely scheduled date would be Thursday of this week, February 15, 1996.

1 The transcript of this hearing -- of this  
2 deposition shall be treated as Committee confidential  
3 until the commencement of the hearings at which you  
4 may be called to testify. At that time it may be  
5 made in -- made public in whole or in part.

6 Prior to the hearings, you will receive a  
7 letter or a call from our Committee advising you that  
8 the transcript is ready for your review and for your  
9 preparation for any public hearings. The transcript  
10 is provided to you for the limited purpose of review  
11 and for preparation for the hearings and is not to be  
12 disclosed for any other reasons.

13 You may be represented by counsel and if  
14 counsel would make an appearance for the record, it  
15 would be greatly appreciated.

16 MR. SPEARS: Yes, my name is James M.  
17 Spears. I'm with the law firm of Gadsby,  
18 G-a-d-s-b-y, & Hannah in Washington, D.C. and thank  
19 you very much for letting me make just a couple of  
20 preliminary statements.

21 We are appearing here at the Committee's  
22 request. I received a call from Mr. Dinh last week

---

1 in which he asked whether Ms. Feinman would  
2 voluntarily appear before this Committee. I  
3 indicated to Mr. Dinh that Ms. Feinman was certainly  
4 interested in cooperating with the Committee and  
5 certainly assisting in any legitimate areas of  
6 inquiry.

7 One of the issues that I think, and one  
8 problem that we have with respect to Ms. Feinman, is  
9 that Ms. Feinman was employed by Simon & Schuster to  
10 assist Mrs. Clinton in the preparation of the book  
11 which was recently released, "It Takes a Village."  
12 And as is normal in those kinds of situations, people  
13 who are asked to assist or who have contractual  
14 interest in assisting in the preparation of this kind  
15 of book enter into a confidentiality agreement with  
16 the publisher and with the author that essentially  
17 says that they will not disclose the mechanics and  
18 the way that the book was put together and those  
19 kinds of things.

20 Part of it is is that we're -- I'm very  
21 concerned and at this point we want to respect that  
22 confidentiality agreement. Ms. Feinman is a writer.



1 Some of the work that she does is assisting people in  
2 terms of the preparation of their books. These  
3 confidentiality agreements are stock in trade and,  
4 quite frankly, Ms. Feinman's adherence to that  
5 confidentiality agreement could have substantial  
6 implications for future employment if she were not to  
7 pay attention to it.

8 So what I would like to do, if I could, is  
9 just stipulate some facts for the record which will  
10 assist, I think, both of you in terms of the  
11 questions -- helping frame the questions so that we  
12 can avoid getting into some of the issues that might  
13 be protected by the confidentiality agreement.

14 So what I would like to do is just  
15 stipulate that Ms. Feinman was hired by Simon &  
16 Schuster to assist Mrs. Clinton in the writing of the  
17 book. Ms. Feinman assisted Mrs. Clinton for eight  
18 months beginning in February 1995 and ending at the  
19 end of September 1995. In that respect, Ms. Feinman  
20 conducted research, produced notes from a series of  
21 taped interviews with Mrs. Clinton, prepared  
22 preliminary drafts of some materials, edited

1 materials that Mrs. Clinton had prepared and  
2 otherwise assisted in the production of this book.

3 And I guess that's kind of what I would  
4 like to put on the record so in terms of the  
5 questions and stuff like that, if we work from that  
6 basis, I think we can handle it without getting  
7 anywhere, running afoul of the confidentiality  
8 agreement.

9 MR. DINH: And as I advised counsel,  
10 Mr. Spears, last week, and so Mr. Ivey will note it,  
11 I do not intend to get into any of the mechanics that  
12 will infringe upon the confidentiality agreement that  
13 you have with Simon & Schuster, so to the extent that  
14 I can, consistent with my memory, I will use the  
15 phrase that counsel has used, assisted Mrs. Clinton  
16 in preparation of the book, or something to the  
17 equivalent, without probing into the mechanics, other  
18 than what Ms. Feinman and her counsel have stipulated  
19 to here.

20 MR. IVEY: That's certainly fine with me.  
21 My understanding is that we're only here really to  
22 figure out issues about the billing records, and I

1 don't -- I would think we could meet your concerns  
2 very easily.

3 MR. DINH: Precisely.

4 THE WITNESS: Thank you.

5 MR. DINH: And whatever mechanics with  
6 respect to your actual work for Mrs. Clinton is only  
7 incidental to our primary investigation and on that  
8 note, I would advise counsel that pursuant to the  
9 procedures set forth in Resolution 120, objections as  
10 to the form of the questions will be noted for the  
11 record. There are two grounds upon which counsel may  
12 object and give an instruction not to answer. That  
13 is privilege and scope.

14 And ultimately, the Committee Chairman will  
15 rule on objections where the witness refuses to  
16 answer the question. And consistent with our  
17 conversation earlier, please advise me when you think  
18 that a line of questioning or the way I phrase the  
19 question is not in comport with our understanding  
20 here with respect to the confidentiality agreement.

21 MR. SPEARS: Fine.

22 MR. DINH: And I promise not to slip up.

---

10

1 MR. SPEARS: Very good.

2 MR. IVEY: Off the record.

3 MR. DINH: Sure.

4 (Discussion off the record.)

5 Whereupon,

6 BARBARA L. FEINMAN

7 was called as a witness and, having first been duly  
8 sworn, was examined and testified as follows:

9 EXAMINATION

10 BY MR. DINH:

11 Q Ms. Feinman, can you state your name for  
12 the record, please?

13 A Barbara Laura Feinman.

14

15

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19

20 Q Ms. Feinman, from the notice of deposition  
21 that you received from the Special Committee, have  
22 you had any conversations outside of your immediate

1 family members and your counsel with respect to the  
2 subject matters you've been asked to testify about?

3 A No.

4 Q Without telling me what you were asked or  
5 what you said, can you tell me whether you've been  
6 interviewed or questioned by any other investigative  
7 agency regarding the matters you are about to  
8 testify?

9 A No.

10 MR. SPEARS: For the record, Counsel, I  
11 want to let you know that we received calls from  
12 Steve Powatin of the Independent Counsel's office and  
13 he has indicated an interest in speaking with  
14 Ms. Feinman as well.

15 BY MR. DINH:

16 Q Can you give us a brief history of your  
17 educational and professional background?

18 A I graduated from the University of  
19 California, Berkeley in 1982 with an undergraduate  
20 degree.

21 Q Did you go to graduate school?

22 A Then I went to graduate school in 1990 and

1 graduated in '92 from Georgetown University with a  
2 master's in English.

3 Q And your counsel indicated that you are a  
4 writer?

5 A I'm a writer. I'm a freelance writer and  
6 freelance editor, and I also teach part-time at  
7 Georgetown University.

8 Q Do you teach writing?

9 A I teach journalism.

10 Q So by "freelance," you mean you are a  
11 self-employed writer?

12 A Yes, I'm self-employed.

13 Q And your counsel stated that beginning in  
14 February 1995 and through September 1995, you were in  
15 a contractual arrangement with Mrs. Clinton and Simon  
16 & Schuster to assist Mrs. Clinton in the preparation  
17 of a book?

18 A That is correct.

19 Q Prior to this time, had you ever met  
20 Mrs. Clinton?

21 A I met her on one occasion. I collaborated  
22 on a book with then Congresswoman Marjorie

1 Margolies-Mezvinsky from Pennsylvania, and  
2 Congresswoman Margolies-Mezvinsky and myself went  
3 over to the White House and interviewed Mrs. Clinton  
4 for about an hour, and that was in I believe 1993.

5 Q Do you remember approximately when in  
6 1993? Was it before or after the summer of 1993?

7 A I don't remember right now. I could look  
8 in my records and I could tell you if it was  
9 important, if you wanted to know.

10 Q That's quite all right, thank you. During  
11 this initial interview in 1993 with Mrs. Clinton, did  
12 you talk about Whitewater Development Corporation?

13 A No.

14 Q Did you talk about Madison Guaranty Savings  
15 & Loan Association?

16 A No.

17 Q Did you talk about Capital Management  
18 Services?

19 A No.

20 Q I take it the topic of your conversation  
21 was mostly regarding the Congresswoman?

22 A It was about women in Congress, the topic

1 of the book. Women in politics, women in Congress.

2 Q Did you talk about anything else other than  
3 women in Congress?

4 A Actually, I barely spoke. No. The answer  
5 is no.

6 Q Did the Congresswoman and Mrs. Clinton talk  
7 about anything else other than women in Congress,  
8 that you can recall?

9 A Not that I can recall.

10 Q Did you talk about White House counsel,  
11 Deputy Counsel Vince Foster at all?

12 A No.

13 Q Prior to February 1995, had you met  
14 President Clinton before?

15 A No.

16 Q And I take it since then you have?

17 A Yes.

18 Q Let me focus your attention now to the  
19 period during which you were working for Mrs. Clinton  
20 on this book, "It Takes a Village." By the way, a  
21 very well-written book. I just picked it up this  
22 last weekend and browsed through it.



1           When you were working on the book, where  
2 was your work space in the White House?

3       A    My work space in the White House --  
4 actually, I think it would be useful for both of us,  
5 for all of us, if I explained there were different  
6 phases of the, kind of, work and so then I could  
7 answer the questions more easily.

8       Q    That would be great.

9       A    There were basically three phases. I was  
10 hired -- in February, we had some preliminary talks.  
11 Mrs. Clinton, the Simon & Schuster editor, Rebecca  
12 Saletan, S-a-l-e-t-a-n, and myself, and it was  
13 decided after a couple of meetings that I would help  
14 Mrs. Clinton on her book. And I started to go over  
15 to the White House to talk with Mrs. Clinton about  
16 the book.

17           So I would say the first phase was in  
18 February when I first spoke with her about the book,  
19 through May. And in those months, I would go over to  
20 the White House maybe once or twice a week when  
21 Mrs. Clinton was in town and interview her for an  
22 hour, maybe a little longer. They were taped

1 interviews, and they were transcribed and then we  
2 would use that material to work from.

3           So during that time period from February,  
4 mid-February, through I'm guessing the end of May, I  
5 would go over to the White House and meet with  
6 Mrs. Clinton in a couple of different places,  
7 sometimes in her office. I'm terrible with geography  
8 but it wasn't in the residence, it was in one of her  
9 offices.

10       Q    That's fine. Can you tell me what you did  
11 in phase 2, which I presume started in June 1995 or  
12 did you take some time off between May and June?

13       A    No, no.

14       Q    So then phase 2 started in June of 1995?

15       A    Right, and that was instead of just coming  
16 over once or twice a week, I would come over several  
17 times a week and I would stay for different lengths  
18 of time, maybe come over at 9:00 in the morning and  
19 leave at 5:00 in the afternoon or stay and work  
20 through dinner or sometimes go home midafternoon and  
21 work at home, but I was working then, instead of in  
22 other places around the White House, you know,

1 instead of meeting with Mrs. Clinton, I was coming up  
2 to the third floor residence and working in her  
3 office. There were two desks there, and I would work  
4 at the desk with the computer and she would work at  
5 her own desk that did not have a computer.

6 Q And when did this phase last until?

7 A It lasted until we went to Jackson Hole for  
8 their vacation, I accompanied them, and that was  
9 August 15 that we flew out in Air Force One.

10 Q And I take it from August 15 to the end of  
11 September that was mostly the final revisions?

12 A From August 15 until I was in Jackson for  
13 17 days and then I flew back on a commercial airline  
14 and they went on to Hawaii and Mrs. Clinton went to  
15 China. Then when she came back, I worked mostly at  
16 home, sometimes I'd come in and work in the Old  
17 Executive Office Building with a woman who had been  
18 hired by Simon & Schuster to do some research, and we  
19 would go over and see Mrs. Clinton in her office,  
20 give her the research, talk with her and then we  
21 would leave.

22 Q Let me focus your attention to what you

---

1 have identified as the second phase of your work for  
2 Mrs. Clinton in June through August 15, 1995. For  
3 the relevant period, I would like to focus your  
4 attention further down to July until August 15,  
5 1995.

6 A Okay.

7 Q Let me show you a sketch that we have of  
8 the third floor of the White House. And let me focus  
9 your attention in particular, north is facing down,  
10 so the top of the page is the south side -- south --

11 A Here is the thing, I don't do directions.

12 MR. SPEARS: There's the solarium,  
13 Washington monument is over here.

14 BY MR. DINH:

15 Q The Washington monument is at the top --

16 MR. SPEARS: That's what did it for me.  
17 It's a guy thing.

18 MR. DINH: Easy, Mr. Spears. This is the  
19 1990s.

20 BY MR. DINH:

21 Q Let me direct your attention now to the  
22 rooms that I have highlighted here in yellow. And --

1 MR. DINH: Actually, let me ask to have  
2 this labeled as Feinman Exhibit 1.

3 BY MR. DINH:

4 Q And let me explain the various rooms just  
5 to orient you. This is an old sketch of the third  
6 floor of the White House, dating back to the Truman  
7 renovations. At that time, you can see at the upper  
8 right-hand side corner of the sketch there are three  
9 rooms. 322, 321 and 320. Those three rooms I would  
10 represent to you are now one room. The walls have  
11 been taken down, and that is what is now commonly  
12 understood as the residence exercise room.

13 A Okay.

14 Q Room 323 is an office, from what I  
15 understand, was originally remodeled for Ms. Carolyn  
16 Huber's use but in July and August of 1995 was used  
17 by Mrs. Clinton for the preparation of her book.  
18 Room 319A is what is commonly referred to as the book  
19 room in the White House residence. The diagram shows  
20 two doors, 341 and 342. 341, from what I understand  
21 from the testimony, is usually blocked so the  
22 entrance to the book room is through 342.

1 Room 319, which I also have highlighted,  
2 you can see has an entry, the sole entry is through  
3 door 343, which is through what I have identified as  
4 the book room, room 319A, and I understand room 319  
5 is used as a closet or a room for table linens for  
6 the White House.

7 A Used for what?

8 Q This room 319 is for the table linens.

9 A Okay.

10 Q And 319A is commonly referred to as the  
11 book room. Are you sufficiently oriented with the  
12 diagram and are you now -- can I ask, you are  
13 familiar with these rooms that I have identified?

14 A I am.

15 Q Now, you stated earlier that during phase 2  
16 of your work, you mostly worked in Mrs. Clinton's  
17 office. Would that be room 323?

18 A Yes.

19 Q And you said that there were two desks  
20 there?

21 A Yes.

22 Q Can you take my pen and draw and mark as

1 X -- draw me two desks and where they are in the room  
2 and mark as "X" Mrs. Clinton's desk and mark as "Y"  
3 the desk you commonly used?

4 A (Witness complied.)

5 Q During this period of time, did you also  
6 have occasion to enter into room 319A, commonly  
7 referred to as the book room?

8 A No, I was only in there during that time  
9 period twice.

10 Q You were only in there during the time  
11 period twice?

12 A Yes, and I believe they were on the same  
13 day.

14 Q They were on the same day?

15 A Yes.

16 Q I will ask you more specific questions  
17 later regarding your specific entries into that room  
18 on those days.

19 You did not regularly work in room 319A?

20 A Absolutely not.

21 Q You did not use the computer in room 319A  
22 at the time?

1 A No.

2 Q Did you use the room in any way at any time  
3 to do any editing or anything like that?

4 A Nothing, never.

5 Q When you were waiting to see Mrs. Clinton  
6 upon these visits, did you wait in room 319A?

7 A No.

8 Q Where did you wait for her when she was  
9 occupied?

10 A I would come in through the usher's office  
11 and they would detain me until Mrs. Clinton was  
12 ready, and then Capricia Marshall usually would come  
13 downstairs to the usher's office and escort me up to  
14 Mrs. Clinton's office. On occasion, the ushers would  
15 escort me up there.

16 Q When you come in, do you come in on the  
17 ground floor of the White House residence?

18 A Yes.

19 Q And you took the elevator up?

20 A Yes.

21 Q Is that your usual course or did you at any  
22 time deviate from that course?



1       A    It depended on whether I drove or walked to  
2 the White House from my home. If I drove, then I  
3 came in -- give me a minute here. There's a  
4 promenade is a place to park between the Treasury and  
5 the White House, and sometimes I would drive so I  
6 would come in through that gate, park right there on  
7 the promenade and come in through the gate. And then  
8 sometimes someone would come and meet me and I would  
9 walk through the White House, I don't know what door  
10 it was, and they would take me to the usher's office  
11 but it was always through the usher's office.

12       Q    Right. So you either took the elevator on  
13 the ground floor up to, I guess it would be the  
14 second floor or was that the first floor that you  
15 would go up to?

16       A    There were millions of floors and I never  
17 knew where I was basically.

18       Q    To the usher's office or you would enter  
19 through what is commonly referred to as the state  
20 floor?

21       A    Right, thank you.

22       Q    And then go to the usher's office there?

---

1       A    Yes.

2       Q    But you would always wait at the usher's  
3 office and announce your presence at the ushers for  
4 them to alert Mrs. Clinton?

5       A    Yes.

6       Q    You never just took the elevator straight  
7 up to the third floor?

8       A    No.

9       Q    Besides room 323 and the two times that you  
10 were in room 319A that you have alluded to earlier,  
11 were there other rooms on the third floor that you  
12 used as your working space?

13       A    There was just a very isolated incident  
14 where I needed to take the transcripts of our  
15 interviews and cut and paste them, and I needed a big  
16 space where I could actually put them out, spread  
17 them on the floor and move them around. I mean, I'd  
18 rather not get into the mechanics of the book but I  
19 needed a room where I could work and spread out, and  
20 I believe it was one of these rooms (indicating). It  
21 was just one of the guest bedrooms that they allowed  
22 me to use for a day.

1 Q The record will reflect that the witness  
2 was pointing approximately to room number 330.

3 A Yeah, it was one of these back bedrooms.  
4 I'm not sure which one but my guess would be right  
5 around there.

6 Q But that was one single isolated incident?

7 A Yeah, I think it was one day or maybe two  
8 days and that was it.

9 Q So other than that one day and then -- or  
10 that one occasion and the two times you went into the  
11 book room, which I will get into later, you worked  
12 exclusively at the desk marked Y in room 323?

13 A Yes.

14 Q Did you on occasion stay overnight in the  
15 White House residence?

16 A Towards the end of either -- I think it was  
17 towards the end of July or beginning of August, I  
18 stayed over I think maybe four nights. You could  
19 check the logs, I can't remember, because I was  
20 working late and we just decided it would be easier  
21 for me and safer rather than going out late at  
22 night. And also, on July 30, I sprained my ankle and

---

26

1 was hopping around and so it was just easier a couple  
2 of nights to stay over.

3 Q During those days that you were staying  
4 over, did you primarily stay in what I am indicating  
5 now, in room 324?

6 A That's the guest bedroom next to  
7 Mrs. Clinton's office. I stayed in there I think two  
8 nights, maybe more, and then Carolyn Huber needed to  
9 stay in there one night because they had a lot of  
10 guests and she wanted to be around, so I think then I  
11 actually went home, but when I came back, I then  
12 stayed for a night or two in one of these rooms  
13 (indicating).

14 Q One of these rooms over in the other end?

15 A Yes.

16 Q We have some records that will try to help  
17 you refresh your memories and I will ask whether they  
18 are consistent with your memory a little bit later  
19 and I just wanted to get a general overview.

20 A Okay, good.

21 Q When you were staying over as a guest of  
22 the White House, did you have occasion to enter into

1 the book room for any reason?

2 A No.

3 Q The book room being 319.

4 A No. I get a little bit thrown off because  
5 I think of Mrs. Clinton's office as the book room  
6 because that's where we were working on a book. I'm  
7 a little confused why it's even called the book room  
8 but --

9 Q I guess it's the specific versus the  
10 general. The specific being room 323 when you were  
11 talking about a specific book that you were working  
12 on, "It Takes a Village," and the reason why the book  
13 room is called the book room in the general sense of  
14 the word "book" is that it is used for shelving  
15 reference books and the like, there are shelves  
16 around. That's what I've been led to understand. I  
17 have no independent knowledge of the logic for naming  
18 rooms in the White House.

19 A Okay.

20 Q So the two times that you had occasion to  
21 enter into 319A, those times were not incidental to  
22 you staying as a guest in the White House?

1 A Absolutely not. When you're ready for me  
2 to explain it to you, I will.

3 Q That will be fine. I'm trying to build up  
4 here, like a good novelist, I'm trying to build up  
5 the suspense.

6 A It's going to be very anticlimactic for  
7 you.

8 (Laughter.)

9 They would send you back to rewrite for  
10 this one.

11 Q You did not go in there to -- in order to  
12 get any videotapes or anything like that?

13 A No.

14 Q You didn't go in there to use the exercise  
15 room?

16 A No. I never went in there for videotapes  
17 and I went never went in there to exercise.

18 Q I take it you never went in there for table  
19 linens?

20 A For table linens? No.

21 Q Let me ask you, then, about specifically  
22 the two times that you went into the book room, room

1 319A.

2 A Okay.

3 Q Do you remember the approximate dates of  
4 these two times?

5 A I don't remember the approximate dates but  
6 I can tell you, it was early on when I started to  
7 work at the White House in Mrs. Clinton's office, so  
8 my guess would be it was late May or early June.

9 Q Could it have happened at any time in  
10 August?

11 A Absolutely not.

12 Q Could it have happened at any time after  
13 July 15, 1995, middle of July?

14 A No, absolutely not. I do want to  
15 differentiate. I went in there I believe on one day,  
16 two different times, in late May or early June, and  
17 then after we came back from Jackson in late  
18 September, on one evening I went in there.

19 Q But that was after August 15?

20 A That was way after, so I just wanted to  
21 make it clear that I expressed myself clearly, that  
22 there were these two times on one day that I went in

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30

1 before Jackson.

2 Q Before Jackson. And I take it that was  
3 because you said that you were not in the White House  
4 before Mrs. Clinton came back from China?

5 A Right.

6 Q So it would be in September sometime that  
7 you were in -- the third time that you entered?

8 A Right.

9 Q Let me focus on the one day that you  
10 enter -- the two occasions on one day that you  
11 entered into the book room. You stated it was  
12 sometime in May or June of 1995?

13 A Yes.

14 Q Could it have been in July of 1995?

15 A Absolutely not.

16 Q And can you tell me, how did you have  
17 occasion to enter the book room on that occasion?

18 A It was in the beginning of when we began to  
19 work in this office on the third floor, and I came in  
20 one morning and Capricia Marshall, Mrs. Clinton's  
21 assistant, told me that Mrs. Clinton was exercising  
22 in the exercise room and wanted to tell me something



1 about the book, and so she, meaning Capricia, took me  
2 into the exercise room to speak with Mrs. Clinton, so  
3 we walked through this room that I assume is the room  
4 you're talking about, we just walked through it,  
5 which took like five seconds, went to the exercise  
6 room. I spoke with Mrs. Clinton briefly and then  
7 Capricia led me back out to our office.

8 Q Your office being room 323?

9 A Being 323. And then a little while later,  
10 if my memory is serving me correctly, it could have  
11 been the next day but I believe it was a little while  
12 later, I had a question for Mrs. Clinton and I think  
13 I asked Capricia if I could go back in there or  
14 Capricia said go ahead, you can disturb Mrs. Clinton,  
15 it's okay, and I walked back in, asked Mrs. Clinton a  
16 question and then walked back out.

17 Q Let me direct your attention back to the  
18 diagram marked Feinman 1. I take it that you entered  
19 where I am pointing now to door labeled 342?

20 A I guess. I don't know.

21 Q Do you remember, you said it was seconds.  
22 Do you remember approximately what was the distance

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32

1 between the door that you entered in and the door  
2 into the exercise room?

3 A Are you asking me --

4 Q The approximate distance.

5 A The distance?

6 Q How many steps did you take? I'm sorry,  
7 that may be a little bit easier.

8 A 10.

9 Q And you just walked directly from one door  
10 to the other door?

11 A Right.

12 Q Was the door to the exercise room where I'm  
13 pointing at right now, was that door closed at the  
14 time that you can remember?

15 A I don't even remember a door. It could  
16 have been just an entranceway, for all I know. I was  
17 in there very briefly.

18 Q So you just walked straight through?

19 A Walked straight through, talked to  
20 Mrs. Clinton and was escorted out.

21 Q Did you linger at all in room 319A,  
22 which -- portions of which you have to walk through

1 in order to get to the exercise room?

2 A No.

3 Q Did you have time to look at the room? Did  
4 you take note of the room in any way?

5 A I have a vague, nonspecific recollection  
6 that it seemed like a storage room to me.

7 Q You didn't see any books or anything like  
8 that that would even stand out in your mind?

9 A I don't have any memory of any specific  
10 objects. It just seemed like a hodgepodge of a room.

11 Q What gave you that impression? Was it  
12 crowded with stuff?

13 A There was a fair amount of stuff, and it  
14 just wasn't decorated. You know, it didn't have  
15 finished decor the way the rest of the rooms that I  
16 was used to being in were.

17 Q Was the lighting bright or dim, if you can  
18 remember?

19 A I have no memory of lighting one way or the  
20 other.

21 Q So other than these two times that you have  
22 just basically walked through the room in order to

1 get to the exercise room, you stated that you came in  
2 in September sometime?

3 A In late September, yes.

4 Q Now, on what occasion did you come into the  
5 book room then?

6 A My memory is a little bit hazy as to the  
7 rest of the day, but I believe it was a day where I  
8 worked in the Old Executive Office Building with the  
9 researcher, Liz Boyer, and that we came over late in  
10 the day, maybe around 6:30 or so, to give  
11 Mrs. Clinton some material, and Capricia was also  
12 there, and there was a young woman named April, I  
13 don't know her last name, who was working on a laptop  
14 in that room.

15 Q In that room, okay.

16 A Yeah. And it was my impression or my  
17 memory that she had been doing some typing for  
18 Mrs. Clinton. And I went into that room, and  
19 everybody was leaving. It was a Friday night, I  
20 think, and there was a printout that was about to  
21 come out. Everybody was leaving. Capricia had to go  
22 somewhere and I volunteered to wait for the printout

1 and put it on Mrs. Clinton's chair.

2 Q Was April waiting there?

3 A April left. I don't remember when she left  
4 but I remember the reason I was staying was because I  
5 needed to wait for this printout so I could walk out  
6 of there and take it to Mrs. Clinton's desk.

7 Q Approximately how long were you in the book  
8 room on that particular time period?

9 A 15 minutes. It was late September.

10 Q And you said that April at that time was  
11 using the space in order to do some typing. Was it  
12 significantly cleaner than you remember, than before?

13 A I don't really have much of a basis of  
14 comparison, because when I was in there in early June  
15 or whenever it was, it didn't make much of an  
16 impression on me, so it wasn't like oh, this room  
17 looks different to me. The only thing that was  
18 different was that there was a laptop, that April and  
19 a laptop were there, and a printer.

20 Q Were they all on the same table?

21 A Yes.

22 Q Was it a computer type table or was it like

---

1 a desk?

2 A It's my memory that it was like a folding  
3 table, or some kind of just a bare table, not a wood  
4 table but like a metal table or something like that.

5 Q Of approximately what size, do you recall?

6 A It was bigger than that table.

7 Q Approximately 6 feet?

8 A 5 feet.

9 Q 5 feet, okay. And the printer was also on  
10 this table with it?

11 A Yes. From there to there. How much does  
12 that indicate (indicating)?

13 MR. SPEARS: About 5 feet.

14 BY MR. DINH:

15 Q We'll stipulate that it looks like  
16 approximately 5 feet.

17 A My distance ability is about as good as my  
18 geography.

19 Q You're doing very well. Let me ask you to  
20 take my pen again and draw for me to the best of your  
21 recollection where that table was in that room.

22 A Which one is the exercise room, right



1 there?

2 Q This area, and that's the entrance to the  
3 exercise room.

4 A I'm not really sure. The desk was -- as  
5 you walked in, the desk was across in front of a  
6 wall, and I feel like the hallway went to the left of  
7 it and was beyond -- and that the entrance was beyond  
8 it, but it's hard to draw what I'm saying on this  
9 thing.

10 Q Let me just turn this and just tell you  
11 that if you came in, you would come in like this.

12 A Then if there were a wall here --

13 Q Let me tell you that's the wall.

14 A If that's the wall, then here is the desk  
15 (indicating).

16 Q Could you mark that A, please.

17 A (Indicating).

18 Q Other than these three occasions, did you  
19 have any other occasion to walk into what I have  
20 identified as room 319A?

21 A To the best of my memory, those were the  
22 only times I was ever in that room.

---

1 Q And with respect to the first two times,  
2 you said Ms. Marshall advised you that Mrs. Clinton  
3 was in the exercise room. Do you know if  
4 Ms. Marshall was working in the book room at that  
5 time, do you have an understanding or recollection  
6 regarding that?

7 A I don't think she was. Capricia was doing  
8 many things and moving around. She had a beeper and  
9 I would beep her sometimes, but she didn't seem to be  
10 stationed in one place. Her duties took her all  
11 over.

12 Q Now, with respect to the second time, that  
13 is, the second day, sometime in September that you  
14 said you entered into the room -- into the book room,  
15 you said a young woman named April was there in the  
16 room working at the time?

17 A Yes.

18 Q And Ms. Marshall was there in the room at  
19 that time?

20 A Yeah, or she came soon after. I don't  
21 remember. April was definitely there. Capricia was  
22 there at some point. I don't know if she was there



1 when we got there but she was in and out.

2 Q Was anybody else in the room at any time  
3 that you were there during this 15-minute period?

4 A No.

5 Q Mrs. Clinton did not come in the room in  
6 order to ask for the printout?

7 A No. She stayed in her office.

8 Q She stayed in her office?

9 A Right.

10 Q Does she keep that office door closed when  
11 she's in there working?

12 A Yes.

13 Q Does that door have an automatic stopper on  
14 it so that when you open it, it automatically shuts  
15 again?

16 A No.

17 Q By "that door," I mean the door to room  
18 323.

19 A Mrs. Clinton's office?

20 Q Mrs. Clinton's office.

21 A No. You have to close it yourself.

22 Q But it is generally kept shut?

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1 A Yes.

2 Q Ms. Feinman, let me direct your attention  
3 now to a record I have labeled S 020017, and I will  
4 show that to you. Let me represent to you this has  
5 been produced to us by the White House as -- actually  
6 I'll give you your copy.

7 A Thank you.

8 Q Let me represent to you that this has been  
9 produced to us by the White House and it reflects  
10 records kept by the White House usher's office with  
11 respect to entries and exits from the White House  
12 residence, and this, as indicated by the top of the  
13 page, is the record for Wednesday, August 2, 1995.

14 And let me ask to direct your attention to  
15 the entry labeled "10:30" there. First of all, let  
16 me start by giving you a reference point within your  
17 own personal life. You said that you sprained your  
18 ankle on July 30, 1995?

19 A Yes.

20 Q So this would be approximately three days  
21 after you sprained your ankle on July 30?

22 A Yes.

1 Q Do you remember that particular day when  
2 you came into the White House at 10:30 in the  
3 morning? This would be a Wednesday.

4 A Well, what I can remember about that week  
5 is that for a few days, maybe two days, one of  
6 Mrs. Clinton's assistants came over and picked me up  
7 because I couldn't drive, and that may have been one  
8 of those days.

9 Q So you sprained your ankle on a Sunday?

10 A Sunday night, I sprained it. Monday, I  
11 went to the doctor and Mrs. Clinton told me to stay  
12 home and rest, and I would say that Tuesday and  
13 Wednesday someone came over and picked me up and  
14 drove me over to the White House.

15 Q So this would be that one occasion on the  
16 Wednesday, right. And the record reflects that you  
17 had lunch at the White House. Is that consistent  
18 with your recollection?

19 A Yeah, usually when I was working in  
20 Mrs. Clinton's office, one of the butlers would bring  
21 a sandwich up for me.

22 Q A sandwich up. Would you take that

---

1 sandwich in room 323?

2 A I was in 323, they brought it there and I  
3 stayed there.

4 Q Did you sometimes go over to 337, what I  
5 have indicated now as the sun room or solarium to  
6 have a more formal lunch?

7 A I did eat some meals in the sun room but  
8 rarely lunch.

9 Q Most of the time you worked through lunch?

10 A Yes.

11 Q In room 323?

12 A Yes.

13 Q You'd make a good lawyer.

14 A My father wanted me to go to law school,  
15 and you can put that on the record.

16 Q I think you found a better calling.

17 MR. SPEARS: I'll stipulate to that.

18 (Laughter.)

19 BY MR. DINH:

20 Q And the record further indicates that you  
21 were a houseguest that night. Is that consistent  
22 with your recollection?

1 A Yes, I remember -- yeah, that makes -- yes,  
2 that's correct.

3 Q And it indicates further that you stayed in  
4 room 324, and I believe this is consistent with your  
5 earlier testimony that during this time period you  
6 were staying in room 324?

7 A Right.

8 Q Which is the bedroom right next to the  
9 office?

10 A Right.

11 Q Now that I have your attention focused on  
12 this particular day, can you tell me specifically  
13 whether you spent the entire day in room 323?

14 A Yes. I don't mean to be facetious but I  
15 was hopping around, so there wasn't much -- I  
16 couldn't go very far.

17 Q So you would remember if you were hopping  
18 to another place?

19 A Yes, I remember hopping to another place,  
20 exactly.

21 Q Incidentally, just so the record is clear,  
22 there is a restroom off 323?

1 A Yes.

2 Q It is where I'm indicating right now, which  
3 is at the top side?

4 A Yes, yes.

5 MR. SPEARS: Is that ours?

6 MR. DINH: No.

7 MR. SPEARS: Okay.

8 BY MR. DINH:

9 Q And now with respect to the next day, on  
10 Thursday, the day following, do you remember if you  
11 stayed in the White House on that day?

12 A I don't have a clear recollection, but I  
13 believe I didn't stay over that night, Thursday, but  
14 that I did stay over Friday. Do you have something  
15 that can help us out?

16 Q Yes, I have a record for Friday, August 4.

17 A I stayed --

18 Q No, this is for Friday, August 4, and it  
19 indicates that you entered the White House at 9:00,  
20 which again is consistent with your memory that you  
21 just stated.

22 Now, did you recall that you came in at

1 approximately around 9:00?

2 A I don't have a specific memory but that  
3 sounds right.

4 Q Did somebody come and pick you up again?

5 A I think by Friday I was able to hop out to  
6 the corner and take a cab.

7 MR. IVEY: By the way, what was the exhibit  
8 number on that?

9 MR. DINH: I'm sorry. Thank you,  
10 Mr. Ivey. The exhibit number was S 020019.

11 BY MR. DINH:

12 Q And now let me direct your attention to  
13 where I'm pointing. The record indicates that you  
14 had lunch brought up to you at 12:45. Is that  
15 consistent with your memory?

16 A Yes.

17 Q Let me direct your attention now to the  
18 entry for 7:30. And that denotes that you had dinner  
19 with the President, Mrs. Clinton and a woman  
20 identified as Kaki Hockersmith, and Barbara Feinman.  
21 Do you recall that dinner?

22 A Yes.

1 Q Now, that indicates that it was taken in  
2 the solarium, the sun room?

3 A That is correct.

4 Q This is one of the meals that you said you  
5 had taken in there?

6 A Yes.

7 MR. IVEY: Is this on 8-5? Is this 20019,  
8 first?

9 MR. DINH: This is 8-4. The one before was  
10 August 2, 20017.

11 BY MR. DINH:

12 Q Let me direct your attention to that  
13 particular dinner. Do you recall the general focus  
14 of the conversation?

15 A We talked a little bit about the book, "It  
16 Takes a Village," the President spoke for a little  
17 while about politics in general, I don't remember. I  
18 was nervous.

19 Q Understandably so. Was that the first time  
20 you had met the President, by the way?

21 A It was. And I remember one other topic of  
22 conversation. Kaki brought the President an early



1 birthday present, which was a drawing of famous movie  
2 stars of like the '40s, and on the back of it they  
3 were identified, and so we all looked at it and were  
4 trying to guess -- identify who the different  
5 characters were.

6 Then the President spoke for a little bit  
7 about the movie "High Noon."

8 Q During this dinner, do you recall ever  
9 talking about Whitewater Development Corporation?

10 A It never came up.

11 Q It never came up. What about Madison  
12 Guaranty Savings & Loan Association?

13 A Never came up.

14 Q Capital Management Services?

15 A Never came up.

16 Q Did you talk about Arkansas at all?

17 A Not that I remember.

18 Q Not even with the Kaki Hockersmith and the  
19 President and First Lady?

20 A I have no recollection of that. I'm pretty  
21 sure it didn't come up.

22 Q Did you talk about the Whitewater hearings

1 then progressing in the Senate Special Committee?

2 A No.

3 Q Now that I've got your attention focused on  
4 this particular date, do you recall if you went into  
5 any other room on the third floor besides room 323  
6 and the sun room, and obviously your bedroom that  
7 night?

8 A No. I went -- after we ate dinner,  
9 everyone left and I went back, went straight back  
10 because I remember walking with Kaki and the  
11 President and they went to the elevator and I went  
12 back to our office to work.

13 Q And the records indicate that that night  
14 you spent in the room next door, 324. Is that  
15 consistent with your recollection?

16 A Yes.

17 Q And I take it you did not use the exercise  
18 room that night?

19 A No.

20 Q And you did not get a video from the book  
21 room?

22 A No. I didn't know there were videos in the

1 book room.

2 Q Well, next time you're at the White  
3 House -- and I understand there's no rental charges,  
4 either.

5 A I'll keep that in mind.

6 MR. IVEY: Although it could lead to  
7 another subpoena.

8 (Laughter.)

9 You might want to try Blockbuster.

10 BY MR. DINH:

11 Q Let me direct your attention now to  
12 Saturday, August 5. I've placed in front of you a  
13 record labeled S 020020.

14 A They have my name wrong on this.  
15 Feinstein, Iceberg, we're all the same.

16 MR. IVEY: What's the name on it?

17 THE WITNESS: Feinstein.

18 BY MR. DINH:

19 Q Let me direct your attention to the entry  
20 labeled "8:30." Do you recall having breakfast with  
21 Kaki Hockersmith that morning?

22 A Yes.

---

50

1 Q That indeed was you who is identified here  
2 as Barbara Feinstein?

3 A Yes.

4 Q That is a mistake, that should be Barbara  
5 Feinman?

6 A Yes.

7 Q And let me ask you specifically regarding  
8 that breakfast, did you and Ms. Hockersmith have any  
9 discussions of Whitewater Development Corporation?

10 A No.

11 Q Madison Guaranty Savings & Loan  
12 Association?

13 A No.

14 Q Capital Management?

15 A No.

16 Q Have you ever heard of a person named Seth  
17 Ward?

18 A Only in the last week from news accounts.

19 Q So I take it that Mr. Ward did not come up  
20 as a topic of conversation, then, either?

21 A No.

22 Q And let me direct your attention now -- I

1 take it after breakfast you went back to the book  
2 room or to room 323 in order to work on the book?

3 A Yes.

4 Q Do you remember if you went directly to  
5 room 323?

6 A I don't have a specific memory but I would  
7 have either gone back to my room or to the office to  
8 work, and I believe I went to our office to work.

9 Q You did not go into the book room, that is,  
10 319A?

11 A No, absolutely not.

12 Q Let me direct your attention to the entry  
13 labeled "12:30."

14 A Yes.

15 Q Which is -- where it indicates that lunch  
16 was served for Mrs. Clinton, Barbara Feinman and  
17 Helen Dickey. Do you know who Helen Dickey is?

18 A Yes.

19 Q How did you come to know who Helen Dickey  
20 is?

21 A Helen Dickey was a young woman who I  
22 believe worked in the social office, that was my

1 understanding, and she came over and helped us out  
2 with some typing.

3 Q Do you recall if on this Saturday, August  
4 5, was the first time Ms. Dickey came over to help  
5 you with typing, this is the first time -- this  
6 indicates that you had lunch served.

7 A I'm sorry, I don't remember the first time  
8 I met Helen or when she started doing some typing.  
9 It could have been around then.

10 Q And I take it that she worked in the same  
11 office that you and the First Lady did?

12 A Uh-huh, yes.

13 Q And I take it now that I've asked you this,  
14 but after lunch in the afternoon you did not go into  
15 the book room, that is, room 319A?

16 A I did not.

17 Q Let me direct your attention now to Sunday,  
18 August 6, which is the next day. This is the record  
19 labeled S 020021. Do you recall going to the White  
20 House that morning at 9:00?

21 A Yes.

22 Q Did you work in the office all that day?

- 1 A Yes, I did.
- 2 Q And you had lunch brought up as the usual
- 3 course?
- 4 A They always fed me.
- 5 Q And you left at 6:00 that night, as the
- 6 record indicates?
- 7 A I remember leaving about that time.
- 8 Q And now that your attention is focused on
- 9 that day, do you recall whether you entered the book
- 10 room or exercise room that day?
- 11 A I definitely did not.
- 12 Q Let me direct your attention now to Monday,
- 13 August 7. Do you recall coming into the White House
- 14 at approximately 8:55, as the record which is labeled
- 15 S 020022 that I have placed in front of you
- 16 indicates?
- 17 A I don't remember that day specifically.
- 18 That sounds -- I mean I was going over there most
- 19 days around that time, and I would usually go in
- 20 around 9:00 or 10:00.
- 21 Q Do you recall whether you entered the book
- 22 room that day?

- 1 A I did not.
- 2 Q The book room being 319A.
- 3 A I did not enter 319.
- 4 Q As is your usual course you stayed in 323,
- 5 which is the office?
- 6 A Yes.
- 7 Q Let me direct your attention now to the
- 8 exhibit labeled S 020023 and just to put it -- which
- 9 is for Tuesday, August 8, the same log that we've
- 10 been looking at. Let me just put it in context by
- 11 telling you that this is what we -- actually scratch
- 12 all of that.
- 13 A Okay.
- 14 Q Do you recall that day specifically coming
- 15 into the White House at around 8:55, around the same
- 16 time that you came in the day before?
- 17 A I do remember that day because our editor,
- 18 Becky, also came that day and I remember we discussed
- 19 whether or not we would meet before going over to the
- 20 White House. She was coming down from New York. And
- 21 I decided I had to get there earlier, so that makes
- 22 sense with my memory then.



1 Q And your editor being Rebecca Saletan?

2 A Yes, and her name is spelled incorrectly on  
3 this document.

4 Q At the 11:30 entry it is spelled as  
5 S-a-l-a-d-a-n. Can you give us the correct spelling?

6 A Yes. S-a-l-e-t-a-n.

7 Q Let me direct your attention to the 12:45  
8 entry where it indicates that lunch was served for  
9 Ms. Feinman and Rebecca Saletan, properly spelled.  
10 Do you recall this particular lunch?

11 A I do.

12 Q Did you both take it in room 323 or did you  
13 take it in the solarium?

14 A In 323. The butlers brought our meals in  
15 on trays, I remember.

16 Q And was Mrs. Clinton working on the book at  
17 the time?

18 A She was there that day but she wasn't there  
19 while we were having lunch. I don't remember if we  
20 had seen her yet, but I remember she wasn't there  
21 during lunch. We were alone during lunch.

22 Q Let me focus your attention now to

1 Ms. Saletan. Do you recall that day whether she  
2 entered the book room, that is, room 319A?

3 A I have no memory, and I am quite sure that  
4 Rebecca Saletan never entered the book room.

5 Q Did she stay with you most of the time in  
6 the office?

7 A We were either always in the office  
8 together or in the solarium or in our rooms.

9 Q Let me direct your attention now to the  
10 bottom of the page where it indicates that you and  
11 Ms. Saletan were guests at the White House that night  
12 overnight. Do you recall that both of you stayed  
13 overnight that night?

14 A Yes, I do remember that. I think they may  
15 have the rooms wrong, though. Let me see.

16 Q It indicates that you were in room 302 and  
17 Ms. Saletan was in room 303, which are --

18 A So they have me in this room and then they  
19 have Becky here.

20 Q In that room.

21 A I remember Becky being in one of these  
22 rooms, but I was -- it looks like these two rooms are

1 connected?

2 Q Yes, I believe so.

3 A I was over -- that's not the room I was

4 in. I was over, somewhere over here (indicating).

5 Q Indicating toward 301?

6 A Yes.

7 Q Did you recall it was a corner room?

8 A Yes.

9 Q Focusing your attention to your particular  
10 stay that night in room 301, and again, this is  
11 consistent with what you told us earlier, generally  
12 being moved down to the south end when there were a  
13 lot of house guests?

14 A Right.

15 Q As you look at the list, the house was  
16 rather full that night?

17 A Right.

18 Q On that particular night, did you have  
19 occasion to enter the book room for videos or books  
20 or anything like that?

21 A No, absolutely not.

22 Q And you did not have occasion to use the

1 exercise room?

2 A No.

3 Q Do you recall if Ms. Saletan either had  
4 occasion to go into the book room or to the exercise  
5 room that night?

6 A I can't imagine any reason she would go in  
7 that room, and I have no memory of her going in that  
8 room.

9 Q Incidentally, did you ever get a tour of  
10 the White House at the beginning or something like  
11 that?

12 A No.

13 Q Let me direct your attention now to the  
14 next day. Do you recall going back to the office in  
15 order to work on the book in the morning from your  
16 bedroom? I'm sorry, I want to identify for the  
17 record -- this record as S 020024.

18 A I'm sorry, I was trying to remember the  
19 day. Could you repeat the question to me?

20 Q This is the very next morning after you  
21 spent the night in room -- in the corner room with  
22 Ms. Saletan. Do you recall waking up that morning

1 and going to the office?

2 A This is what I recall. I recall having  
3 breakfast in the solarium with Becky, and there were  
4 some other guests, I don't know who they were, a man  
5 and two sons. And then Carolyn Huber took us out on  
6 the balcony of the solarium so that we could watch  
7 the helicopter departure.

8 Q And that indicates that that happened at  
9 approximately 8:58?

10 A Right. And then I remember Becky and I  
11 were antsy to get going on our work and then we went  
12 into the office and started to work.

13 Q And the record indicates that you came back  
14 to the solarium, you and Ms. Saletan came back to the  
15 solarium at around 1:00 for lunch. Is that  
16 consistent?

17 A I remember that, uh-huh.

18 Q Was it just you two?

19 A Yes.

20 Q Let me direct your attention back to the  
21 breakfast.

22 A Okay.

1 Q Did -- at any time during the breakfast  
2 conversation, did you have a discussion about  
3 Whitewater Development Corporation?

4 A Absolutely not.

5 Q Madison Guaranty Savings & Loan?

6 A No.

7 Q Capital Management Services?

8 A No.

9 Q Seth Ward?

10 A No.

11 Q Pretty unusual breakfast conversation, I  
12 must admit, but I do want to be thorough.

13 A It would be. We were talking about our  
14 book deadline mostly.

15 Q Understandable. And much more normal. Let  
16 me direct your attention now to the exhibit labeled  
17 S 0200325. This record will look somewhat different  
18 from what you've been looking at. This is a  
19 handwritten log which at the top says "F-1 movement  
20 log." Let me represent to you that had -- has  
21 been -- that this has been produced to us by the  
22 White House and they represent -- that the Secret

1 Service keeps at the ground floor right before the  
2 ground floor elevator when you enter at the ground  
3 floor. Do you recall seeing a Secret Service agent  
4 at that post when you walk in on the ground floor?

5 A Yes, absolutely. Right across from the  
6 elevator.

7 Q Do you usually check in with him and tell  
8 him your name?

9 A No, they never talked to me.

10 Q They never talked to you, okay.

11 A I couldn't even get a hello out of those  
12 guys.

13 MR. SPEARS: And they can't spell your name  
14 right, either.

15 THE WITNESS: And they can't spell my name  
16 right, either.

17 BY MR. DINH:

18 Q Let me direct your attention to, where your  
19 attention has already been directed, and ask you to  
20 take a look at that particular entry where it  
21 indicates Ms. Feinman, misspelled F-i-n-e-m-a-n. It  
22 indicates here -- let me just orient you by telling

1 you this is Monday, August 14, 1995, which would be  
2 the day before the First Lady departed for Wyoming.

3 Do you recall this particular visit to the  
4 White House?

5 A I remember coming over the day before we  
6 left with my suitcase. Capricia told me if I brought  
7 it over, they could get it on to Air Force One for  
8 me.

9 Q I take it you went on Air Force One with  
10 the First Lady and the President to vacation in  
11 Wyoming?

12 A Yes.

13 Q And the record indicates that you came in  
14 at 1506 which is military time for 3:06 p.m. Is that  
15 consistent with your recollection, midafternoon  
16 sometime?

17 A I really have no memory of that day besides  
18 bringing my suitcase over. I don't remember how long  
19 I worked or -- I remember I put my suitcase down  
20 outside the office, that's what Capricia told me to  
21 do.

22 Q "Outside the office" being room 323?



1 A Yes. And I remember being in there because  
2 when I came out I looked to see if my suitcase was  
3 gone and it was gone. So that's all I remember.

4 Q And I take it that during that time you did  
5 not enter room 319A?

6 A I did not.

7 Q You indicated that you rode on Air Force  
8 One with the President and Mrs. Clinton out to  
9 Wyoming. Did there come a time during that flight  
10 that there was any discussion of Whitewater  
11 Development Corporation that you can recall?

12 A I was not sitting with them. I was sitting  
13 with their staff back in the plane.

14 Q So you were not privy to any conversations  
15 that they may have been having?

16 A No, I did not. I was not privy to any  
17 conversations they were having.

18 Q Do you remember specifically what staff  
19 members you were sitting near?

20 A I sat next to the White House photographer,  
21 whose first name was Barbara.

22 Q And anybody else that you can remember?

---

1 A Across the aisle was national security  
2 counsel Andrew -- Andrew, I can't remember his last  
3 name, I think it started with an S. Andrew  
4 something.

5 Q During this flight, did you have any  
6 conversation regarding Whitewater Development  
7 Corporation?

8 A I did not.

9 Q Madison Guaranty Savings & Loan  
10 Association?

11 A I did not.

12 Q Capital Management Services?

13 A I did not.

14 Q The Whitewater hearings then being  
15 conducted at the Senate?

16 A No, I did not.

17 Q Did you overhear any such conversations?

18 A No, I did not.

19 Q Do you know who Maggie Williams is?

20 A Yes, I do.

21 Q Do you know her by sight?

22 A Yes, I do.

1 Q Do you recall seeing her at any time in  
2 room 319A, in the book room?

3 A I do not.

4 Q Did you see her at any time while you were  
5 there on the third floor?

6 A I have one vague recollection of Maggie  
7 coming up to see Mrs. Clinton in her office. I don't  
8 remember when. And I saw her one day on the second  
9 floor of the residence when I was there with  
10 Capricia, Mrs. Clinton and Maggie. I think it was  
11 after some White House event on the lawn.

12 Q With respect to the one time that you saw  
13 Ms. Williams come up to the office to see  
14 Mrs. Clinton, do you recall if she was alone or with  
15 somebody else?

16 A I don't remember, I'm sorry.

17 Q Other than the three occasions on which you  
18 had occasion to pass through or enter the book room  
19 that we've already talked about, did you, while you  
20 were working on the third floor in room 323,  
21 specifically witness any person entering the book  
22 room that you can recall?

1 A I have vague recollections of Capricia  
2 going in and out of that room, and the cleaning  
3 staff.

4 MR. SPEARS: You might also -- April, April  
5 was somebody you saw in that room.

6 THE WITNESS: Right.

7 MR. DINH: But we've already eliminated  
8 that.

9 BY MR. DINH:

10 Q Incidentally, you indicated you do not  
11 remember April's last name?

12 A Right.

13 Q Do you recall approximately where she  
14 worked?

15 A I recall now because I saw her name on one  
16 of the logs that you showed me, and I think it was  
17 Springfield.

18 Q April Springfield. That's consistent with  
19 your memory?

20 A Yes.

21 Q Do you know, does she work in the White  
22 House?

1 A It was my understanding she was an intern  
2 in the social office, and that Helen had recommended  
3 that April might do some typing.

4 Q Let me direct your attention now to what  
5 has been marked DKS N 028928 through DKS N 029043 and  
6 let me describe it generally for the record. They  
7 are a stack of photocopies of what appears to be  
8 computer printouts. They measure approximately 11  
9 inches by 17 inches and the stack is approximately 1  
10 inch thick and interspersed in between are  
11 photocopies of some 8-1/2-by-11 pages. And the  
12 photocopies, some are in color, some are in black and  
13 white and the color ones reflect some red handwriting  
14 throughout. I'll ask you to study that for a  
15 moment.

16 (Witness reviewed the document.)

17 BY MR. DINH:

18 Q Have you ever seen these records before?

19 A No, never.

20 Q Have you seen any records similar to these  
21 before?

22 A No.

1 Q By "similar," I mean something measuring 11  
2 by 17 with photocopies of computer printouts.

3 A No, never.

4 Q And I take it you have not seen them in the  
5 White House?

6 A No, never.

7 Q And I take it you have not seen them in  
8 room 323?

9 A Never.

10 Q Nor did you see them in room 319A?

11 A No, I did not.

12 Q Have you had any discussions that you can  
13 recall of Rose Law Firm billing records?

14 A Do you mean in the White House with people  
15 or do you mean with my sister, what we saw on the  
16 news last night?

17 Q Let me just start with a specific. In the  
18 White House.

19 A No.

20 Q At any time while you were in the White  
21 House?

22 A Let me think for a minute to make sure

1 because I believe the answer is no.

2 (Pause.)

3 I never had any discussions about any  
4 billing records in the White House. There was one  
5 occasion where the construction workers, who were  
6 there the entire summer making a lot of noise, broke  
7 through some plaster and I believe Capricia came and  
8 unlocked a closet in the office where we were  
9 working, Mrs. Clinton and I were working, and I think  
10 that there was some plaster or something and Capricia  
11 was annoyed and she relocked the door.

12 And I have a vague recollection of somebody  
13 telling me that that was the closet in which there  
14 were some records that had been publicized, that  
15 someone had put back in there or something. I don't  
16 remember the details, but that something had been  
17 publicized, so that is my only recollection of  
18 documents ever being discussed.

19 MR. IVEY: Can you read back that answer.

20 (The reporter read the record as requested.)

21 BY MR. DINH:

22 Q Let me direct your attention to this one

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1 particular occasion that you have told us briefly  
2 about and I'm probably going to take you through it a  
3 little bit more slowly.

4 A Right.

5 Q You said Capricia Marshall came in, talking  
6 about some plaster falling. Do you recall whether  
7 she was mentioning specific areas that it was  
8 falling?

9 A There was just a ton of banging, you could  
10 hear horrible noises going on right above where I was  
11 working.

12 Q And you were working at that time in room  
13 323?

14 A Right.

15 Q And Ms. Marshall came in and said plaster  
16 is falling?

17 A She didn't say that. We just heard all  
18 these noises. She unlocked the door because she  
19 could hear -- it sounded like there was something  
20 going on.

21 Q Did any plaster fall in the office while  
22 you were there?



- 1 A No, no.  
2 Q So you were working in the office and  
3 Ms. Marshall came in?  
4 A Right.  
5 Q And said plaster falling or something?  
6 A She said something. There was a lot of  
7 noise going on, and you could hear banging and I  
8 think you could hear, like, stuff crumbling.  
9 Q And she went to the closet and opened up  
10 the closet?  
11 A Right. And it looked like there was stuff  
12 coming down.  
13 Q There was stuff coming down in the closet?  
14 A Right, yeah.  
15 Q Before she opened the door you didn't see  
16 any stuff coming down?  
17 A No, but you could hear really loud banging  
18 and all kinds of stuff going on.  
19 Q Now, so there was stuff falling down. Do  
20 you recall what it was falling down on?  
21 A No.  
22 Q Were they boxes that you can recall?
- 

- 1 A I don't remember.  
2 Q Did Ms. Marshall make any attempt in order  
3 to clean up the plaster?  
4 A She just was annoyed and I think she went  
5 and told them to be more careful.  
6 Q But she did not -- at that particular time,  
7 she did not try to clean it up?  
8 A She didn't rearrange or touch anything or  
9 clean anything up.  
10 Q She opened up the door in order to see that  
11 there indeed was plaster falling into the closet?  
12 A Right.  
13 Q And then she immediately closed the door?  
14 A Right, and locked it back up.  
15 Q Do you recall approximately how long was  
16 the period of time when the door -- when the closet  
17 door was open?  
18 A A minute.  
19 Q A minute, okay. Do you recall, if I can  
20 focus your attention, do you recall where  
21 Ms. Marshall had the key to the closet?  
22 A Where she kept it you mean?

1 Q Yes.  
2 A No. It was just on her.  
3 Q It was on her?  
4 A Yes.  
5 Q Did she go to any -- to Mrs. Clinton's  
6 desk, for example, in order to get a key?  
7 A I don't remember.  
8 Q She came in the door and then went straight  
9 for the closet and unlocked it?  
10 A I think. I have a very vague recollection  
11 of it. I just remember there was a lot of banging  
12 and noise.  
13 Q And she did not, I take it, go to your desk  
14 in order to look in one of the drawers and get out a  
15 key?  
16 A I have no memory of whether she went for a  
17 key or had a key on her.  
18 Q But she just had a key and opened it up?  
19 A Yeah.  
20 Q Let me direct your attention now to the  
21 diagram that has been previously labeled Exhibit  
22 Feinman 1. And, again, you've marked your desk as

1 "Y" there. Do you recall if that closet, where I'm  
2 pointing my pen now, indicating the closet with the  
3 door, 359?  
4 A Right.  
5 Q Now, let me ask you to focus a little bit  
6 and ask you whether you can give me a time frame that  
7 this occurrence happened.  
8 A Sometime in July or August. I just don't  
9 remember.  
10 Q Late July?  
11 A I have no memory of when it was.  
12 Q Let me ask you now with respect to the  
13 comments that were made after the closet door was  
14 closed.  
15 A Right.  
16 Q Actually, let me back up a little bit. Was  
17 Mrs. Clinton in the room at the time?  
18 A No.  
19 Q You were alone in the room?  
20 A Yes.  
21 Q Was anybody else in the office?  
22 A I was alone.

1 Q You were alone?

2 A Right.

3 Q Then she closed it back up. What did  
4 Ms. Marshall do?

5 A It was my impression that she went to tell  
6 them to be more careful and to not knock out walls.

7 Q Understandably. So she walked out the  
8 door?

9 A Yes.

10 Q Did she say anything to you?

11 A I don't think so, just -- if she did, it  
12 was just about that they weren't being careful.

13 Q Now, during your initial answer you said  
14 somebody told me that it was the closet in which some  
15 records were kept, and you were unclear. Can you  
16 tell me who "somebody" is?

17 A I can't remember and I can't remember when  
18 it was. I just know that I had a memory of somebody  
19 telling me that that was the closet that some records  
20 were put into, that had been publicized, that had  
21 been on the news.

22 Q Was it approximately close to the event?

---

1 By "the event," I mean to -- when Ms. Marshall came  
2 into the room, opened up the closet and exited.

3 A I just don't remember. I just remember  
4 that I knew that then.

5 Q You knew that when Ms. Marshall came in?

6 A Yes.

7 Q So somebody told you before Ms. Marshall  
8 came in the room, opened up the closet and walked  
9 back out that it was the closet in which some things  
10 were put in there and removed?

11 A Right.

12 Q And by this general "thing," some files had  
13 been put in and removed and publicized, do you  
14 remember whether it was the box of personal files  
15 from White House Deputy Counsel Vince Foster's office  
16 on the night of his death?

17 A I just don't remember what it was.

18 Q You just heard there were some records that  
19 were put in there and then removed and this had been  
20 publicized?

21 A Right.

22 Q So the comment that somebody told you, this

1 is the famous closet or something to that effect?

2 A Yeah, something like that.

3 Q Or infamous, depending on one's  
4 perspective.

5 Other than this one occasion, did you have  
6 any other discussions about the records that you can  
7 recall?

8 A No. And that was my point. That is the  
9 only time that it ever came up, "it" being any kind  
10 of records or documents or anything.

11 Q Now I asked my original questions limited  
12 to geography. Do you have any recollection of having  
13 any discussions in the White House? Let me expand  
14 that a little bit further and ask you whether you had  
15 any discussions anywhere with any person who works  
16 for the White House or Mrs. Clinton about Rose Law  
17 Firm billing records.

18 A No.

19 Q Did you overhear any such conversations?

20 A No.

21 Q And I take it you had no conversations with  
22 Mrs. Clinton regarding Rose Law Firm billing records?

1 A No.

2 Q Let me ask you, let me walk you through a  
3 list of persons and ask you if you know any of them.  
4 Do you know who Mary Ann Delarives is?

5 A No.

6 Q Do you know who Steven Gordon is?

7 A There's a Steven who is the assistant to  
8 the President who I met out in Jackson. I don't know  
9 a last name.

10 Q This is the person who sat next to you on  
11 the plane?

12 A No, that was an NSC person across the  
13 aisle, Andrew.

14 Q I'm sorry. Do you know who Bill Knapp is?

15 A No.

16 Q Do you know who Ian McWilliams is?

17 A No.

18 Q Tom Oaks?

19 A No.

20 Q Do you know who Mark Paris is?

21 A No.

22 Q Do you know who Lisa Perez is?



1 A No.  
2 Q Do you know who Billy Perry is?  
3 A No.  
4 Q And you stated before that you do know who  
5 April Springfield is?  
6 A If April is the intern.  
7 Q In the social office?  
8 A In the social office. And that sounds like  
9 the name that I remember.  
10 Q I think that's consistent with the prior  
11 testimony that we have before us also.  
12 A Okay.  
13 Q Do you know who Sheila Martin Stone is?  
14 A No.  
15 Q Do you know who Elena Torika is?  
16 A No.  
17 Q Other than the one time that you testified  
18 that you saw Mrs. Clinton in the exercise room when  
19 you came in through the book room, did you have  
20 occasion to witness other times when Mrs. Clinton was  
21 in the exercise room?  
22 A I never went into the room and saw her in

1 the exercise room besides that time, but I knew that  
2 sometimes she was in that room exercising.  
3 Q While you were working in the office?  
4 A While I was working or she would come into  
5 our office and she had been exercising.  
6 Q Is the door to room 319A to which I'm  
7 directing my pen now, is that door generally kept  
8 closed, if you can recall?  
9 A I think it is, it is.  
10 MR. DINH: I have no further questions.  
11 Thank you very much for your time.  
12 THE WITNESS: Thank you. Thank you,  
13 Carmen.  
14 EXAMINATION  
15 BY MR. IVEY:  
16 Q I have a couple of follow-up questions. I  
17 might skip around, but I'm not going to need to go  
18 through everything the way Mr. Dinh did. I just want  
19 to focus on a couple of areas and then we can wrap it  
20 up.  
21 I want to go back to your conversation  
22 about the closet and 323, the office that you used.

1 And I want to see if I can jog your memory at all.  
2 When you first started -- when you first started  
3 working at the White House in February of 1995, did  
4 you wear a coat typically?

5 A Yeah.

6 Q Where did you put your coat?

7 A Well, in February of '95 I was usually  
8 meeting with Mrs. Clinton in the map room or in one  
9 of her offices, so I would just put it on a chair,  
10 just take it off and put it on a chair.

11 Q By the time you started working in 323 --  
12 what point was that?

13 A That was in late May or early June.

14 Q When you first started using that room, do  
15 you recall any conversations about the closet at that  
16 point?

17 A No.

18 Q What's in there, anything like that?

19 A No.

20 Q Never came up that you can recall?

21 A Never came up.

22 Q Do you think it might have been -- well,

1 let's see if we can back into it.

2 You said that before this event you  
3 described with the plaster falling and Capricia  
4 Marshall being upset, that you had heard something  
5 about the closet, that there was some records that  
6 were in there, so I take it it would be sometime  
7 between when you first started working in the office  
8 in May and July or so when this --

9 A It was sometime probably when I started  
10 working in that office, sometime in the beginning or  
11 maybe in the middle. I just don't remember. And it  
12 was just a comment someone made and I just don't  
13 remember who it was. I just remember vaguely  
14 somebody saying something about it.

15 Q Do you remember who sort of oriented you to  
16 that room, who took you up there first?

17 A Capricia.

18 Q Capricia Marshall?

19 A Yes.

20 Q Do you think she might have been the one  
21 that made the comment?

22 A I just don't remember, I honestly don't, of

1 who it was.

2 Q Do you recall why it is that the comment  
3 sort of stuck with you? You seem to have a good  
4 memory about a lot of things, but why this comment in  
5 particular stayed with you? Or was there anything in  
6 particular about it that stands out in your mind?

7 A Just that it was a closet that had been  
8 written about in the newspaper, so --

9 Q Had you ever seen any stories about it in  
10 the newspaper?

11 A I had seen mentions of it.

12 Q Do you recall the context of what was  
13 mentioned about it?

14 A No.

15 Q And you think it might have been in the  
16 late spring or early summer of 1995?

17 A Yes.

18 Q Do you read a lot of different newspapers  
19 or one?

20 A I read a lot of different newspapers.

21 Q Washington Post?

22 A The Washington Post; sometimes I read The

1 New York Times.

2 MR. DINH: And I take it whatever paper  
3 that was carrying your particular story for that  
4 day?

5 (Laughter.)

6 MR. IVEY:

7 Q Did you see Ms. Huber up in that area  
8 frequently during the summer of 1995?

9 A Not frequently. Occasionally.

10 Q Would she come into 323?

11 A I only remember seeing her come into 323 a  
12 couple of times.

13 Q Why did she come?

14 A To speak to Mrs. Clinton.

15 Q And she didn't stay long?

16 A She didn't stay long, no.

17 Q Did you ever see her in 319A, the book  
18 room?

19 A No. I don't have any memory of seeing  
20 her. I was usually in Mrs. Clinton's office and the  
21 door was closed, so I wouldn't see people going in  
22 and out.

1 Q And I take it you worked fairly closely  
2 with Mrs. Clinton and Capricia Marshall when you were  
3 working on the book during this period of 1995?

4 A With Mrs. Clinton.

5 Q Did you see Capricia Marshall on most of  
6 the days that you were there as well?

7 A Yes, yeah.

8 Q Did you get any sense from working with  
9 them in July and August of 1995 that there was  
10 anything conspiratorial going on?

11 A Absolutely not.

12 Q It just seemed like regular behavior  
13 patterns?

14 A It was a nice, pleasant atmosphere.

15 Q Were you present when construction work was  
16 done in the closet in 323?

17 A No.

18 Q Are you aware that any work was done in  
19 that closet?

20 A I'm not aware of any work being done in  
21 there.

22 Q Did the subject of the records in the

1 closet in 323 ever come up again?

2 A No.

3 Q Did Ms. Marshall mention anything about it?

4 A No, no.

5 Q Did you get the sense that Ms. Marshall was  
6 hiding anything in the closet?

7 A Absolutely not.

8 Q And you said that Mrs. Clinton wasn't  
9 present when this --

10 A She wasn't present.

11 Q -- took place. Now, you also were asked  
12 about the key to the closet door.

13 A Right.

14 Q And I think your testimony was that it  
15 seemed to you that Ms. Marshall had the key with her,  
16 she didn't have to go get the key?

17 A Yeah, but I -- I can't answer that with any  
18 degree of certainty. I just remember she opened the  
19 closet up and they were banging away.

20 Q To hop around a bit here, I wanted to ask a  
21 question about the printout you said that you were  
22 waiting for one night.



- 1 A In late September, right.  
2 Q What was printing? What type of paper was  
3 printing out?  
4 A A chapter of the book.  
5 Q Was it on 8-1/2-by-11 paper?  
6 A Yes.  
7 Q And where was this computer, or the  
8 printer?  
9 A The printer was on the desk as well, I  
10 believe.  
11 Q The desk in which room?  
12 A In 319.  
13 Q The book room?  
14 A In the book room.  
15 Q 319A?  
16 A Yes.  
17 Q Do you know if that printer had been there  
18 previously?  
19 A It was the first time I --  
20 Q First time you'd noticed it?  
21 A Yeah. Since I hadn't been in that room  
22 since early June, I don't know when they put the

- 1 printer in there.  
2 Q Were there other people who were assisting  
3 with the book or assisting Mrs. Clinton in some way  
4 other than Capricia Marshall working or spending time  
5 in the book room during the July and August 1995  
6 period?  
7 MR. SPEARS: Book room, excuse me, being  
8 319A?  
9 MR. IVEY: 319A.  
10 THE WITNESS: I'm not sure I understand the  
11 question. Were there other people who were in that  
12 room --  
13 BY MR. IVEY:  
14 Q During July or August of 1995.  
15 A During July and August of 1995, nobody was  
16 working in that room that I know of on the book or  
17 anything else. I just saw cleaning staff going in  
18 and out.  
19 Q Do you recall any point at which  
20 Ms. Marshall was trying to clean out the closet in  
21 323?  
22 A No. The only time I ever saw that door

1 open was when the construction workers started making  
2 the plaster come apart.

3 Q Did you know a man named Freemyer who was  
4 supervising --

5 A Is that one of the ushers?

6 Q Yes.

7 A What's his first name?

8 Q Dennis.

9 A He's got sort of strawberry blonde --

10 MR. DINH: Yes. He has a mustache.

11 THE WITNESS: Yes.

12 BY MR. IVEY:

13 Q Did he ever talk to you about any of the  
14 work being done in that section of the White House?

15 A The construction work?

16 Q Right. Did you ever ask him when is this  
17 going to end or what are you guys doing up in the  
18 attic or anything like that?

19 A No. The only time I had any reason to talk  
20 to the ushers about the construction work is one day  
21 they had a circuit -- they hit a circuit breaker and  
22 I lost what I was working on on the computer, we lost

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1 all the power.

2 Q I'm sure that was a spirited conversation.

3 A Called the usher's office and asked them if  
4 they could come up and see me and get someone to come  
5 help me with the computer to see if we could retrieve  
6 the unsaved work.

7 Q Do you remember about when that was?

8 A Late July maybe. I don't know.

9 Q Do you recall anything else connected with  
10 the closet in 323?

11 A Absolutely not.

12 MR. IVEY: I think that's it for me.

13 EXAMINATION

14 BY MR. DINH:

15 Q I just have one question. Do you recall  
16 what kind of printer that was? Was it a laser  
17 printer? This is in September of 1995.

18 A I believe it was a laser printer.

19 Q It was coming out fairly fast?

20 A Right.

21 Q As you were there?

22 A Right.

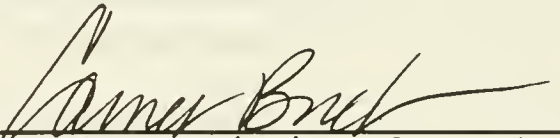
1 MR. DINH: That's all I have. Thank you  
2 very much for your time.

3 (Whereupon, at 11:16 a.m., the deposition  
4 was concluded.)

5  
6 -----  
7 BARBARA L. FEINMAN  
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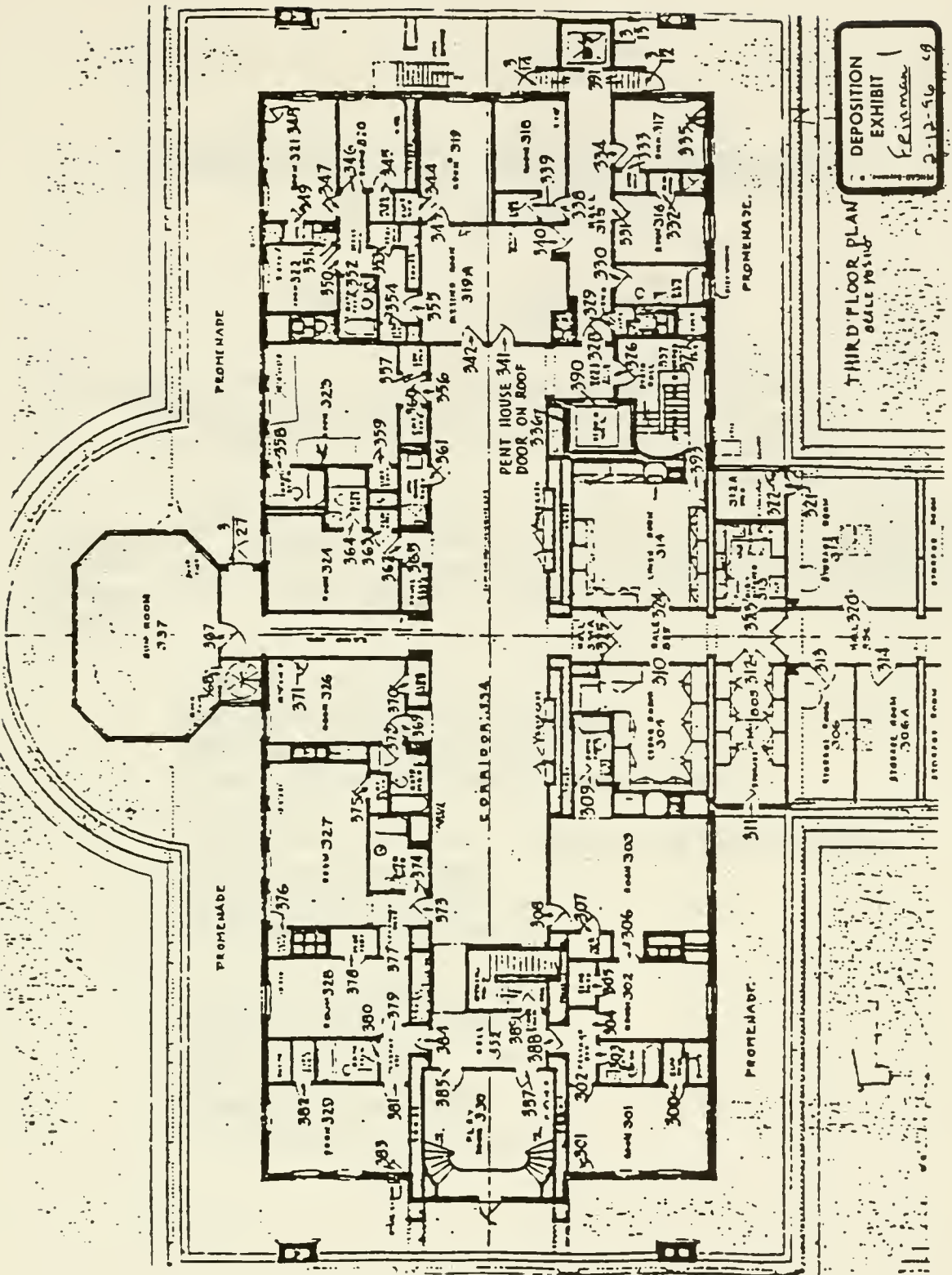
CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires MARCH 14, 1998







**DEPOSITION OF MARK D. GEARAN  
IN RE: S. RES. 120**

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**MONDAY, FEBRUARY 12, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of MARK D. GEARAN, called for examination pursuant to notice of deposition, at 5:30 p.m. in Room 640-A of the Hart Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ALICE S. FISHER, Esq.  
Majority Deputy Special Counsel  
NEAL E. KRAVITZ, Esq.  
Minority Principal Deputy Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

JUSTIN D. SIMON, Esq.  
ELAINE METLIN, Esq.  
Dickstein, Shapiro & Morin  
2101 L Street, NW  
Washington, DC 20037  
On behalf of the Deponent.

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## P R O C E E D I N G S

MS. FISHER: This deposition is going to be conducted pursuant to Senate Resolution 120, which establishes a Special Committee administered by the Banking Committee to conduct an investigation into Whitewater and other related matters, Madison, Capital Management, et cetera. Section 1(b)(2) of Senate Resolution 120 authorizes an investigation and public hearings into several issues, which your notes kind of span, but generally the focus is on 1(b), I believe.

This deposition is going to be held in advance of public hearings which are ongoing. I informed your counsel that it is very possible that you may be called to testify shortly at the public hearing and possibly on Thursday. If you want a transcript of the deposition, we can provide that to you as soon as it is ready, given that your hearing is going to come up so quickly.

I will ask you a series of questions and ask that you testify under oath. If you don't understand a question, let me know. If you want a

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break, let me know. She will prepare a set of questions and answers and the deposition will be treated as committee confidential until the commencement of public hearings. Your hearing -- portions of it could be asked at the hearing.

I see that you are represented by counsel. If you want to state an appearance for the record.

MR. SIMON: Certainly. My name is Justin D. Simon. I am a member of Dickstein, Shapiro & Morin in Washington, D.C.

MS. METLIN: My name is Elaine Metlin. I am also with Dickstein, Shapiro & Morin. I am also here on behalf of Mr. Gearan.

MR. SIMON: I have one question with regard to the transcript. We would appreciate getting a copy of it as soon as it is possible, if you are still thinking about Thursday.

MR. KRAVITZ: Maybe what makes the most sense, I assume, Alice, that the transcript is being ordered at the fastest possible rate, and maybe if Mr. Simon wants to send a messenger over tomorrow.

MS. FISHER: That would be fine.

1 MR. KRAVITZ: Call and make sure it is  
2 ready and then a messenger can pick it up.

3 MS. FISHER: Call 224-0558, and somebody  
4 there can help you and bring it down.

5 MR. SIMON: Okay.

6 MS. FISHER: If you want to submit an  
7 errata sheet prior to Thursday, feel free to do  
8 that.

9 MR. SIMON: Thank you.

10 MS. FISHER: Your objections to questions  
11 will be noted for the record. You can object on the  
12 grounds of privilege or irrelevance, and any  
13 objections on the grounds of relevance can be ruled  
14 upon by the Chairman.

15 My name is Alice Fisher. I am the deputy  
16 special counsel for the Majority. To my left is  
17 Jennifer Schwartz, who is also on the Majority staff,  
18 and to her left is Neal Kravitz, who is deputy  
19 special counsel for the Majority.

20 Whereupon,

21 MARK D. GEARAN

22 was called as a witness and, having first been duly

1 sworn, was examined and testified as follows:

2 EXAMINATION

3 BY MS. FISHER:

4 Q State your name.

5 A Mark D. Gearan.

6 MR. SIMON: If I may make a brief  
7 statement. For the record, Mr. Gearan is appearing  
8 here voluntarily and on rather short notice.

9 MS. FISHER: Yes. We appreciate that, very  
10 much so. Thank you for being so flexible.

11 MR. SIMON: The one thing I wanted to make  
12 clear is he has really not had an opportunity since  
13 he has been, shall we say, hitting the ground running  
14 at the Peace Corps since he came had an opportunity  
15 to revisit this subject, either before or after your  
16 invitation to come down today. I do want to say at  
17 the beginning he will endeavor to use his best  
18 efforts but to understand that we are sort of  
19 catching him with a relatively minimal amount of  
20 opportunity to refresh his recollection about the  
21 broader context of this inquiry.

22 MS. FISHER: Okay. I understand that. I

1 appreciate that fact.

2 MR. SIMON: Thank you.

3 MS. FISHER: If you want to consult with  
4 your counsel at any time, please do so, to bring  
5 things into context. I will try to help you where I  
6 can.

7 BY MS. FISHER:

8  
9

10 Q Your employment position between January  
11 1993 and the present, if you could go through your  
12 history.

13 A From January 20th, 1993, I became a member  
14 of the President's staff at the White House, first as  
15 the deputy chief of staff and then in the late spring  
16 and May and June of that year as director of  
17 communications at the White House, a position I held  
18 until August of 1995, where I was nominated and  
19 confirmed by the Senate as the director of the Peace  
20 Corps, a position I hold at this moment.

21 Q While you were director of communications  
22 at the White House, who did you report to?

1 A I reported to David Gergen in that capacity  
2 while he was at the White House. The last -- when  
3 David left the White House, to Leon Panetta, who is  
4 the chief of staff to the President.

5 Q Could you describe for me what the division  
6 of labor was basically between you and Mr. Gergen.

7 A Sure. David's position when he came to the  
8 White House was counselor to the President, which  
9 involved, among other things, the communications, the  
10 communications department, generally the portfolio of  
11 that. I was the director of the communications  
12 department, which at that point included the  
13 speechwriting office, the research office, news  
14 analysis and the press office.

15 So that was my portfolio. But the chain of  
16 command, as I said, was that I reported to  
17 Mr. Gergen.

18 Q Who reported to you?

19 A There were deputy communications directors  
20 who reported to me as well as for a period of time in  
21 that position the press office, the press secretary.

22 Q Who were the deputies, if you can recall.



1 A David Dreyer was a deputy communications  
2 director. During the whole course of that time the  
3 head of the speechwriting office, Don Bahr, was  
4 within the communications office. The press  
5 secretary was Dee Dee Myers, although in December of  
6 1994, that position reported then directly to the  
7 chief of staff. We changed the communications  
8 department, where the press office was broken out of  
9 the communications office, if you will.

10 Q That was when? '94?

11 A That was December of '94.

12 Q Okay.

13 A And then the news analysis and the research  
14 office were not deputy positions.

15 Q As far as press statements that went out,  
16 did you have the final review of those statements?

17 A For many of them, I did. There were many  
18 perfunctory statements that went out without my  
19 review that would have been approved by Dee Dee  
20 Myers. It was not necessary for me to review.  
21 Anything with my name on it I would review. The bulk  
22 of them were issued by the press secretary, and I

10

1 would review them, but it depended on the topic or  
2 the subject matter.

3 Q In August of 1995, when you left the White  
4 House, what were the circumstances in which you left  
5 the White House?

6 A In my job, you mean?

7 Q Yes. It is a question I have to ask. I  
8 understand you went on to do great things and you  
9 will do great things with the Peace Corps.

10 A I was quite honored by the President's  
11 nomination and very honored by the Senate  
12 confirmation to head up the Peace Corps.

13 Q Was it something that you sought?

14 A Yes.

15 Q I was aware that Carol Bellamy, the  
16 previous Peace Corps director, was leaving, and made  
17 my interest known to the President's staff.

18 Q About when was that?

19 A It was in the June-July period.

20 Q Of '95?

21 A Of '95.

22 Q Your counsel has told me that you have made



1 various responses to document requests over the  
2 years, and I don't want to get into the details of  
3 those, but I do want to ask you whether you know,  
4 have all responsive documents that you are aware of  
5 been produced to the Committee or did someone else  
6 search your documents to make productions to the  
7 Committee, or if you could just tell me how?

8 MR. SIMON: I think Mr. Gearan is somewhat  
9 at a disadvantage on this, because as far as we know,  
10 all of Mr. Gearan's responsive documents to requests  
11 of this committee have been produced to White House  
12 counsel.

13 We frankly don't know and didn't know even  
14 as late as last Thursday what documents were being  
15 produced by White House counsel to the Committee.  
16 But I know they have been in extensive discussions  
17 with the Committee. But as far as we know, we can't  
18 tell you that, honestly.

19 BY MS. FISHER:

20 Q I want to get the facts of what your  
21 knowledge is. Basically, when you left the White  
22 House in August, did you leave your documents there

---

12

1 for them to review for any subpoenas?

2 A My understanding was when I left the White  
3 House that the responsibility for the production of  
4 the documents would be with the White House counsel's  
5 office.

6 Q Did you take any documents with you?

7 A Documents for production?

8 Q Did you take any of your personal documents  
9 with you that may have been responsive to later  
10 subpoenas?

11 A Well, it was certainly my intention to have  
12 these communications office files remain at the White  
13 House. That was my intention. As it has been  
14 represented to the Committee, those were  
15 inadvertently moved to the Peace Corps with other  
16 personal effects in boxes. When I was made aware of  
17 that, they were returned to the White House, and the  
18 White House counsel was so notified.

19 Q How did you become aware that you had taken  
20 documents?

21 MR. KRAVITZ: Counsel --

22 MR. SIMON: Part of this I can elaborate on

1 because he doesn't know the context of the request,  
2 and then he can fill it in so you have a complete  
3 picture.

4 BY MS. FISHER:

5 Q Since you left the White House, were you  
6 ever notified of the Senate subpoena to the White  
7 House, the Senate committee subpoena? Has anyone  
8 contacted -- we sent a request in August and then we  
9 sent a subpoena in October. Were you ever notified  
10 of that?

11 MR. SIMON: We received -- we were not  
12 formally notified of the subpoena, because I believe  
13 White House counsel, after discussions with us, were  
14 under the impression that all of Mr. Gearan's  
15 documents were records management.

16 They had said under those circumstances  
17 since he was no longer a White House employee that  
18 they would take responsibility for the production of  
19 documents from the communications office files, which  
20 Mr. Gearan had maintained in his office. It was not  
21 until later when we discovered some of those  
22 documents had been in fact delivered over to the

1 Peace Corps that that became an issue. Up to that  
2 point, we did not believe we had any documents.

3 BY MS. FISHER:

4 Q How did you become aware that you had  
5 documents that were responsive to the Senate  
6 subpoena?

7 A Well, when I was called by my counsel that  
8 there was -- the end of October, that period of  
9 time -- a request, another request, I checked through  
10 the area, the storage area where boxes came over from  
11 the White House and were stored at the Peace Corps.

12 I discovered at that point that the box of  
13 the segregated files that I had, the communications  
14 office files I had segregated for purposes of prior  
15 productions and files, that it was inadvertently  
16 taken to the Peace Corps, at which point I instructed  
17 my assistant to return them to the White House. That  
18 was not done.

19 Q By your assistant?

20 A By my assistant. I assumed that was done.

21 The next point in time where this came to  
22 my attention was the end of January, January 31st, I

1 believe, where there was -- in conversations with my  
2 counsel, who had been talking to the White House  
3 counsel, they had indicated to my counsel that they  
4 were having difficulty finding my files at the White  
5 House, which of course we found surprising, at which  
6 point I went back to the area where they were stored  
7 and found that they had not been returned as I had  
8 thought.

9           So, I called counsel and we immediately  
10 returned them to the White House counsel, and I did  
11 not go through them, as I was not sure of any of the  
12 subpoenas that might have happened during this period  
13 of time when I was not responsible for production and  
14 thought it best in the interest of time and urgency  
15 to obviously get them back to the White House.

16           It is reflective of my first four or five  
17 months on the job where I tried to come into the  
18 Peace Corps and learn the agency and take over. I  
19 have had an extraordinary time involving travel to  
20 Poland and Paraguay and Botswana and Swaziland and  
21 South Africa and nationally to Boston, New York and  
22 Battle Creek. It has been an extraordinary time. It

1 has resulted in I never went through any of the boxes  
2 that came back to the White House.

3           Last week we had Sergeant Shriver, the  
4 first director of the Peace Corps, over to the  
5 headquarters for his 80th birthday. In advance of  
6 that, I realized I had nothing on the walls in my  
7 office, which looked rather strange, I thought. At  
8 that point I decided I wanted to put something up on  
9 the walls. That's not where I came across it, but my  
10 only relevance is --

11           MR. KRAVITZ: He put his notes up on his  
12 walls.

13           THE WITNESS: That's the extent of my  
14 life. But that is longer than your question, for  
15 which I apologize.

16           BY MS. FISHER:

17           Q   That's fine. Other than your counsel, did  
18 you speak to anyone prior to your deposition today  
19 about your deposition?

20           A   No.

21           Q   In late 1993, say, September '93 until  
22 early '94, could you explain for me what your



1 responsibilities were with regard to Whitewater  
2 issues?

3 A I'm sorry. The time line again?

4 Q Late 1993, starting September 1993,  
5 August-September '93 until early '94.

6 A Okay. That period of time I was the  
7 director of communications at the White House. My  
8 involvement to the issues was to receive reporters'  
9 inquiries with specific questions and to then review  
10 them with Bruce Lindsey, an assistant to the  
11 President, who as an Arkansan and someone who I view  
12 to be as the Arkansas knowledgeable person within the  
13 White House. The bulk of my effort was to list the  
14 reporter questions initially as almost a preview to  
15 the questions for Mr. Lindsey so he would know what  
16 the reporters were asking.

17 Very quickly, because of the complexity of  
18 this issue, reporters then would call Mr. Lindsey  
19 directly, and I was less and less the initial point  
20 of contact for the press.

21 So, it was increasingly localized to  
22 Mr. Lindsey, which is a system that we found helpful

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1 on other issues within the White House. On health  
2 care, we would have a health care spokesperson. On  
3 NAFTA, we would have someone who had the lead.  
4 Particularly with complex issues, so the reporters  
5 could go into the kind of depth they would want to  
6 with a spokesperson. So, Mr. Lindsey quickly became  
7 that.

8 Q Was there anyone other than Mr. Lindsey who  
9 was someone that you had regular contact with  
10 regarding these matters?

11 A No. He was the one person within the White  
12 House who had a background and knowledge of the  
13 issues. I don't think anyone was as aware.

14 Q If Mr. Lindsey wasn't around, was there  
15 someone else that you would go to?

16 A I don't think so. About Whitewater,  
17 generally no.

18 Q Did you have any regular contact with  
19 individuals from the White House counsel's office  
20 regarding these issues?

21 A Regarding the Whitewater issues?

22 Q Yes, Whitewater, Madison, Capital



1 Management.

2 MR. SIMON: What point in time?

3 MS. FISHER: Late '93, early '94 time  
4 period.

5 THE WITNESS: No, I don't recall a  
6 conversation with the counsel's office on the  
7 specifics of those questions. Towards the end of  
8 1993, that was the period you were talking, in  
9 December, when we issued a statement from the White  
10 House on when the President turned over the documents  
11 to the Department of Justice, there was a statement  
12 at the end of December, right before Christmas. I  
13 recall that statement was drafted, I believe, by the  
14 counsel's office. I did speak with Mr. Klein and I  
15 believe Mr. Nussbaum at the time. But the  
16 principal -- my principal contact was Mr. Lindsey.

17 BY MS. FISHER:

18 Q To your knowledge, would members of the  
19 press office or the communications office ask  
20 questions of members of the White House counsel's  
21 office in regard to how to respond to certain  
22 inquiries?

1 A You mean in a generic way?

2 Q Yes, generally speaking.

3 A I think it would not be uncommon. I can't  
4 give you any specific instance. If there was  
5 guidance needed on how to answer any legal matter,  
6 apart from Whitewater and the President's nomination  
7 to the Supreme Court, other legal issues, it is not  
8 uncommon for anyone in a spokesperson capacity to  
9 meet and visit with one of the staff members who is  
10 expert on it. You would meet with the National  
11 Security Council staff on a foreign affairs issue, in  
12 that sense. I'm not sure if that is your thread.

13 Q Let me say a hypothetical. It may well  
14 have happened all the time. I just don't know.

15 If there was a press inquiry that came into  
16 the press office, not directly to you, maybe, but to  
17 someone in the press office, and it wasn't a legal  
18 matter but it was something they needed factual  
19 information on, something relating to Whitewater or  
20 Madison, not necessarily giving legal advice but just  
21 a factual inquiry, would the members of the press  
22 office at any time go to a member of the White House

1 counsel's office to ask them to answer the question  
2 for them or to help them gather facts to answer the  
3 question for them?

4 A I doubt it. They would be best to ask  
5 Mr. Lindsey. I certainly would have.

6 Q You don't recall any instance where you  
7 would have gone to someone in the White House  
8 counsel's office, Mr. Nussbaum, Mr. Klein,  
9 Mr. Eggleston, to ask them to gather factual  
10 information for you in responding to press-related  
11 questions on Madison or Whitewater?

12 MR. SIMON: Just so that it is clear,  
13 because I think, as you are aware, there is some  
14 White House counsel participation in discussions that  
15 take place at a later point in time as opposed to the  
16 earlier -- your time period sort of spans two  
17 different periods.

18 BY MS. FISHER:

19 Q Why don't we just take August to September  
20 '93, prior to the subpoena being issued.

21 A Which subpoena?

22 Q The turning over of documents in '93.

1 Would that help?

2 A Yes. I don't recall that period of  
3 involvement. As I said, it was principally -- my  
4 dealings would be principally with Mr. Lindsey.

5 Q So, do you have any recollection of anyone  
6 in the press office requesting the White House  
7 counsel's office to prepare chronologies of events,  
8 for example?

9 MR. KRAVITZ: What time period?

10 MS. FISHER: In the same time period.

11 THE WITNESS: In that period? I don't  
12 recall that. I recall it at a later period, a  
13 chronology being prepared at the beginning of  
14 January.

15 BY MS. FISHER:

16 Q By Mr. Eggleston?

17 A I believe that is it. But I don't recall  
18 in that time period.

19 Q Other than Mr. Lindsey, in the early stages  
20 of, say, August, September, October of 1993, do you  
21 recall discussing these Whitewater issues with anyone  
22 else?

1 A No. Frankly, I would have put a lot of  
2 this later into October than that. I don't have a  
3 recollection of the issues until I would place it  
4 later in my own memory, into October, later October,  
5 in that period of time.

6 But you mean beyond Mr. Lindsey that I  
7 would have had conversations with. As I said, I  
8 would not have put it until later October.

9 Q When the issue started coming to the  
10 forefront, who other than Mr. Lindsey would you have  
11 had contact with regarding Whitewater, Madison in,  
12 let's take the period up until December 1993 again?

13 MR. SIMON: You are excluding for these  
14 purposes the testimony of Mr. Gearan regarding the  
15 meeting he had on October 14?

16 MS. FISHER: Yes.

17 BY MS. FISHER:

18 Q I have no intention of rehashing your  
19 testimony with regard to the October 14 meeting.

20 MR. KRAVITZ: Are you including matters  
21 relating to David Hale when you say "these Whitewater  
22 matters"?

1 MS. FISHER: I believe I did say Capital  
2 Management. I do mean David Hale.

3 MR. SIMON: Did you understand it that  
4 way?

5 THE WITNESS: The question is did I talk to  
6 anyone beyond Bruce Lindsey?

7 BY MS. FISHER:

8 Q Yes.

9 A I don't recall. I may have with  
10 Mr. Gergen, who, as I said, I reported to, but I  
11 don't recall.

12 Again, my typical form at this point would  
13 be to receive incoming press inquiries and to list  
14 the questions down and then talk to Mr. Lindsey as to  
15 whether he was going to call the reporter back or how  
16 we were going to handle it. That's how I recall the  
17 bulk of my activity for that period of time.

18 Q Turning to specifics, I want to show you a  
19 copy of notes that have been produced to the  
20 Committee that are marked S 020292 to S 20310, and  
21 ask you if these are your notes.

22 A Yes, these are my handwriting.



1 MR. SIMON: Please look through the whole  
2 thing, because she is asking you to identify the  
3 entire document.

4 (Witness examined the document.)

5 THE WITNESS: Yes, these are my notes.

6 BY MS. FISHER:

7 Q Do you recall the circumstances of taking  
8 down these notes? Was it a meeting?

9 A I recall a meeting where Jeff Gerth, who is  
10 a New York Times reporter, came and reviewed all of  
11 this information with Bruce Lindsey and myself at the  
12 White House.

13 Q Was anyone else present at the meeting?

14 A No, I don't believe so.

15 Q Was Mr. Gergen at the meeting for the  
16 beginning and then left at some point?

17 A He may have been. I don't recall that.

18 Q Do you recall who called you to the  
19 meeting?

20 A I don't recall how the appointment was set  
21 up, whether I did it or Bruce Lindsey did it or how  
22 it was set up.

1 Q Now, I realize your notes aren't dated.  
2 Mr. Lindsey has produced to the Committee notes of  
3 this meeting as well that are dated September 20,  
4 1993. Is that consistent with your recollection?

5 A It is not, no.

6 Q Do you have any reason to dispute that it  
7 wasn't at that time?

8 A No, I have no reason to --

9 Q I can tell you that the notes pretty much  
10 match. They go along the same subjects.

11 MR. SIMON: I think, as Mr. Gearan was  
12 trying to indicate before, he would have put this  
13 meeting later. He has no reason to dispute  
14 Mr. Lindsey's putting this meeting as of the 20th.

15 THE WITNESS: These are my notes. If they  
16 are similar to Mr. Lindsey's for that date, I have no  
17 reason to dispute that.

18 MR. KRAVITZ: I actually read both sets of  
19 notes this afternoon right next to each other, and  
20 they are strikingly similar. It would be very  
21 surprising to me if these notes were of two different  
22 meetings.



1 THE WITNESS: My memory would have put it  
2 later in October. But the White House schedule is --

3 MR. SIMON: He does remember the meeting.

4 BY MS. FISHER:

5 Q Do you recall how long the meeting lasted?

6 A I don't. By virtue of the notes, it would  
7 seem like it must have been 30 to 45 minutes, but I  
8 don't remember.

9 Q Do you recall whether you knew about the  
10 general subject matter of the meeting prior to  
11 attending the meeting?

12 A No, I don't remember.

13 Q Do you remember any discussions with  
14 Mr. Lindsey prior to the meeting?

15 A No.

16 Q Can you generally describe what you  
17 recollect about the meeting independent from your  
18 notes?

19 A Sure. It was in my office, as I recall, in  
20 the west wing of the White House. I don't believe I  
21 had ever met Mr. Gerth before, but he did detail this  
22 entire notes as recorded here and then asked for

1 the -- asked the questions at the end of this. It  
2 was extremely complicated to me then, frankly, as it  
3 is today to me.

4 But my recollection is of him going through  
5 this and then stating the questions at the end, which  
6 was a fairly common process. The reporter would  
7 provide the information and he details, obviously,  
8 all the conversations he has had and then the  
9 questions at the end requiring the follow-up.

10 Since Mr. Lindsey was the lead Arkansas  
11 contact within the White House, I realized that it  
12 was appropriate that he was in the room, that he  
13 would be the appropriate person to have heard this,  
14 and any follow-up or information would have to come  
15 through Mr. Lindsey.

16 Q Did Mr. Lindsey provide any information to  
17 Mr. Gerth at this meeting, to the best of your  
18 recollection?

19 A I don't recall that. I don't believe my  
20 notes indicate that. It was mainly his review of his  
21 research and reporting and then the questions of --

22 MR. SIMON: "He" being Mr. Gerth?

1 THE WITNESS: Yes, and then the questions  
2 posed to the White House.

3 BY MS. FISHER:

4 Q This meeting discusses David Hale at  
5 length, or at least your notes do. Do you recall  
6 whether this meeting was the first time you learned  
7 of an issue relating to David Hale?

8 A I don't recall when I learned of David  
9 Hale.

10 Q Do you recall learning of a telephone  
11 contact between Mr. Hale's lawyer, Randy Coleman, and  
12 Bill Kennedy at the White House in August of 1993  
13 prior to this 1993 meeting?

14 A No. I'm aware, as I tried to prepare for  
15 this, that I have notes of that reporter's inquiry  
16 about it and notes about the suggested responses, I  
17 believe, to those reporters' inquiries. I can't put  
18 a recollection on the date of when that reporter  
19 inquiry was.

20 Q Do you remember what your general  
21 impressions were after this meeting, whether it was  
22 wow, this is the first I'm hearing this, or oh, jeez,

---

30

1 this is what they expected to come up and now it  
2 has? Do you have any recollection of your  
3 impressions?

4 A Well, I guess most of all that it was  
5 incredibly complex and that -- I don't think I had  
6 ever heard anything of this detail prior to this. I  
7 was not a full-time staff member on the campaign when  
8 Mr. Gerth had written previously, so I was not  
9 schooled in any of these issues particularly.

10 I don't remember any indication on  
11 Mr. Lindsey's part of any alarm or concern by his  
12 department or conduct at this meeting or afterwards  
13 but that there were these comments made and then the  
14 request for information.

15 Q So, you don't recall Mr. Lindsey being  
16 alarmed or concerned about what Mr. Gerth told you  
17 and Mr. Lindsey at the meeting?

18 A No, I do not.

19 Q Do you recall having a discussion with  
20 Mr. Lindsey after this meeting?

21 A I don't, no.

22 Q I don't want to take you through the whole

1 note by note of this, but I do want to ask you some  
2 questions about your notes.

3 A Sure.

4 Q Please bear with me, because I will try to  
5 skip some.

6 MR. SIMON: I think for the record it  
7 probably would be easiest to do this: if you could  
8 say if it is the first page or if it is a subsequent  
9 page, if you could say what the first word on the  
10 page is.

11 MS. FISHER: Or I could refer to the Bates  
12 number.

13 MR. SIMON: Oh, that's even better. I  
14 didn't realize these had numbers on them.

15 BY MS. FISHER:

16 Q On the first page, S 20292, down in the  
17 second half of the page, it becomes a little harder  
18 to read. Please read.

19 A "Gerth and Steve Engelberg, Little Rock for  
20 three days, talk with Hale, believe he tells truth,  
21 Governor Clinton -- loans through McDougal to cover  
22 debts, allegation. BC," which would be Bill Clinton

1 "encouraged or engaged misuse of government program  
2 or at least a coverup. NYT," New York Times, "asked  
3 Hale for affidavit."

4 Q Do you recall anything other than what is  
5 set forth here in the notes?

6 A I do not.

7 Q Do you recall one way or another what your  
8 impression was when you first heard that there was  
9 someone out in Arkansas, namely David Hale, making  
10 allegations that the President had pressured him to  
11 make loans?

12 A I guess what I can remember of this is,  
13 number one, it was very complicated to me at the  
14 time. This is very dense material. There were names  
15 and matters that I was unaware of in Arkansas,  
16 politics and business here.

17 But secondly, because Bruce Lindsey was the  
18 key Arkansas staff member in the White House who was  
19 knowledgeable about Arkansas matters and had a  
20 history with the President in gubernatorial  
21 campaigns, which is referenced here, because he was  
22 not alarmed or seemingly concerned by this



1 information, I assume that affected my review of his  
2 comportment.

3 Thirdly, because this was Arkansas, this  
4 would not be something I would be tasked with. This  
5 would be Bruce's portfolio to follow up with. I was  
6 probably grateful he was there to hear it firsthand.

7 Q I guess I'm trying to see if I can refresh  
8 your recollection of whether this was the first time  
9 you were hearing this. I take it that it is not  
10 every day someone comes forward and makes these  
11 allegations.

12 MR. KRAVITZ: Pretty close to every day.

13 THE WITNESS: Well, I think in fairness,  
14 the staff life of any White House is a busy one, and  
15 it is not an uncommon experience for an awful lot of  
16 charges to be leveled at public figures.

17 All I can say is, separate from the  
18 complexity of this, which I was impressed with,  
19 because I felt Mr. Lindsey was quite knowledgeable  
20 and someone who I knew to be knowledgeable about  
21 Arkansas, because of his reaction to this, I did not  
22 particularly -- this did not particularly penetrate

---

1 as something that was serious.

2 And thirdly, because it was not something I  
3 would be tasked to follow up on personally, that may  
4 account for my calm.

5 BY MS. FISHER:

6 Q Were you curious as to the lack of concern  
7 on the part of Mr. Lindsey?

8 A I don't recall that I was curious. You  
9 could say I was more calmed by it.

10 Q Turning on the next page, 20293, if you  
11 could just read that top portion.

12 A "FBI to local magistrate for records of  
13 Whitewater, turned over tax records but not" -- there  
14 is no indication of what that follows. "Magistrate  
15 signed search warrant at 1:20 p.m. on day of Foster.  
16 Hale, three conversations with BC," Bill Clinton.  
17 "Tunnel underneath Little Rock capital to meeting  
18 during campaign, 3 in a mall. Hale has small  
19 investment company, misused SBA funds."

20 Q Do you recall whether this was the first  
21 time that Whitewater came up in relation to your  
22 duties as communications director? This being



1 September 20, 1993, Mr. Gerth is now talking about  
2 Whitewater tax records, and I think he goes further  
3 later on in the meeting. Do you recall any  
4 impression about that?

5 A Well, again, I would have put this in a  
6 later time frame. I had no reason to dispute what  
7 other notes have indicated. I would have put this in  
8 a later time period in October.

9 So, if this was -- I don't remember any  
10 prior conversation, if this is indeed that September  
11 time period. But I would be less than honest if I  
12 would have testified to this committee certainly that  
13 it was September. I would not have put it there.

14 Q Do you recall whether -- you do recall the  
15 meeting?

16 A Oh, absolutely.

17 Q Do you recall whether you thought, oh, he  
18 is mentioning Whitewater, this is the first time that  
19 I am dealing with this?

20 A I don't have that recollection, no.

21 MR. SIMON: Do you recall any issue about  
22 Whitewater during the campaign?

1 THE WITNESS: No. As I said, I was not --  
2 I am aware that it came up during the campaign. I  
3 was not on the primary staff.

4 BY MS. FISHER:

5 Q In fairness, I was attempting to focus on  
6 your job at the White House and what you dealt with  
7 there.

8 MR. KRAVITZ: Can I ask one clarifying  
9 question?

10 MS. FISHER: Sure.

11 MR. KRAVITZ: Mr. Gearan, my understanding  
12 is that the notes on page 20292 that you read for us,  
13 those are notes of what Mr. Gerth was saying to you  
14 and Mr. Lindsey; is that correct?

15 THE WITNESS: That's correct. As I read  
16 these, I believe all of this information is from  
17 Mr. Gerth. I had no independent knowledge of any of  
18 this. It would be my practice to note if any  
19 information would have been from Mr. Lindsey at this  
20 meeting.

21 MR. KRAVITZ: Then starting on page 20293,  
22 at least where it starts talking about -- where Gerth

1 starts talking about Hale, your notes are notes of  
2 what Mr. Gerth told you he had been told by Mr. Hale.

3 THE WITNESS: That's how I read my notes,  
4 that's correct.

5 BY MS. FISHER:

6 Q On S 20294 -- and again, I'm going to try  
7 to keep myself from asking you about all of your  
8 entries, but I do want to ask you about an entry here  
9 that surrounds the word "Chemato" and ask you just to  
10 read that, starting 1980 and then explain to me what  
11 you recall about that particular issue.

12 A "1980, BC call several times concerning his  
13 SBIC."

14 Q That would be Hale's SBIC?

15 A I don't know that. It is not indicated in  
16 my notes. Again, as I mentioned, this was  
17 information from Gerth. "Brought in," I would assume  
18 that is "San Francisco consultant to see if state  
19 could set up Chemato." I don't know if that is the  
20 name of the consulting firm. Perhaps. "Larry  
21 Shipley ran it," which one could read as running  
22 Chemato, but I don't know. "Loaned \$80,000. It went

1 broke. No illegalities alleged. Estimates Bill  
2 Clinton's ties and knowledge." I guess that is  
3 "estimates."

4 Q Do you recall what this refers to?

5 A No, I don't recall it. This is my  
6 handwriting, but this is what I said at the  
7 beginning, that it was rather dense material and  
8 complicated material.

9 Q Did you ever at some later date discover  
10 what this reference referred to? To your knowledge  
11 on the present day, do you have any idea?

12 A I don't. To this day, I don't know what  
13 that means.

14 Q So, you don't know what -- do you have any  
15 idea what it means when it says "it went broke"?  
16 What is it that went broke?

17 A I don't know. I don't know if it is  
18 Chemato. I don't know -- I don't know.

19 Q Down there where it says "ESTS," would that  
20 be established or estimates?

21 A Yes.

22 Q "BCI's ties." Would that be Bill Clinton's

1 ties with David Hale?

2 A I don't know. That would be how I write  
3 "established." I said "estimates" I think on the  
4 transcript.

5 Q On S 20295, which is the next page, the  
6 notes appear to relate to alleged conversations  
7 between McDougal, McDougal and Tucker, et cetera.

8 A Do you want me to read that?

9 Q Yes.

10 MR. SIMON: I have no problem, since it is  
11 his handwriting and I am sure you would want him to  
12 do it. My concern about this is that it not appear  
13 that because he is reading this that he has any  
14 knowledge of this beyond what Mr. Gerth is saying.

15 It would seem to me, frankly, given the  
16 fact that this would probably assist in the  
17 deposition of Mr. Gerth about the basis for these  
18 statements, that that would be useful.

19 But my problem is, given the fact that it  
20 is also not clear whether, given my client's lack of  
21 understanding of the context and his not knowing the  
22 people or the organizations, et cetera, that even

1 what is being written down is an accurate reflection  
2 of what was said.

3 I want to make it clear. So, when he is  
4 giving these answers, it is not altogether clear that  
5 he ever understood it well enough to be able to  
6 answer your questions.

7 MS. FISHER: I understand that. The  
8 references that I have questions about I basically  
9 want to know if he recalls anything else about the  
10 discussion with Mr. Gerth that is not reflected in  
11 the notes; and, two, on certain particular areas  
12 which I will try to point out, I would like to know  
13 if he ever during his tenure at the White House after  
14 this meeting discovered what something may or may not  
15 have referred to. I will try to be more pointed in  
16 my questioning. I appreciate that.

17 MR. SIMON: I appreciate your sensitivity  
18 to it. My only problem is that, having represented a  
19 number of witnesses over the years, I think it is  
20 very difficult to try to recall where there is so  
21 much of a meeting that one may not understand, it may  
22 be very difficult to recall anything beyond what you



1 have written down, and to try to then expand on -- to  
 2 build on what may not be an accurate reflection of  
 3 what Mr. Gerth said two years or so after the event,  
 4 my only concern is the accuracy of the record for  
 5 this committee and the extent to which my client is  
 6 really able to go beyond these notes in a situation  
 7 where he doesn't necessarily understand what was  
 8 being told to him at the time. Whereas, other notes  
 9 that he has, I think he may be able to do that and to  
 10 have other recollections, because it may be less  
 11 opaque to him than this briefing was.

12 I will not interject again. I'm sorry.

13 MS. FISHER: That's fine. I want it to be  
 14 clear as well.

15 MR. SIMON: I may not resume my potted  
 16 plant status, but I will try to be a little bit  
 17 less.

18 MR. KRAVITZ: One suggestion, actually,  
 19 Mr. Gearan, that I think would help the clarity of  
 20 the record, I think when Alice is just asking you  
 21 what the notes say, I think if you can just read what  
 22 the notes say and then wait until she asks you what

1 you understand them to mean. Wait for a second  
 2 question and then for the third question, whether you  
 3 know anything additional today. I think that way the  
 4 record will be much more clear about what you are  
 5 actually testifying to.

6 THE WITNESS: Whatever is most helpful to  
 7 the Committee.

8 BY MS. FISHER:

9 Q Why don't you read this page.

10 A I can definitely read my own handwriting, I  
 11 think. I will do my best. "Fall 1985.  
 12 Conversations with Jim McDougal and with Jim McDougal  
 13 and Jim Guy Tucker. Two things going on. I,  
 14 McDougal told them staff need help. Friends in  
 15 political family need help. Jim Guy Tucker: figure  
 16 a way to get you more money (SBIC could only loan 30  
 17 percent of equity). McDougal also told him he'd run  
 18 into audit in S&L. Had to get loan transactions out  
 19 of there. Asked for list of assets.

20 "2, fall of '85 identified loans. A,  
 21 Castle Water and Sewer loan of 150,000. Jim Guy  
 22 Tucker a stockholder. B, Steve Smith, McDougal



1 business partner, BCA, 65,000 cable company; C, loan  
2 to Susan McDougal."

3 Q Please complete it.

4 A "Jim Guy Tucker urged him to get out of  
5 troubled loans. He underestimated loan from McDougal  
6 that one of loan concern Bill Clinton."

7 Q Could that be "understood"?

8 A That could be "understood." That probably  
9 is loans. Let me read it again. It could be. "He  
10 understood loan from McDougal that one of loans  
11 concerned Bill Clinton."

12 MR. KRAVITZ: I think you actually put an  
13 extra word in there. Why don't you read that one  
14 again.

15 THE WITNESS: I will try one more time.  
16 "He understood from McDougal that one of loans  
17 concerned Bill Clinton."

18 BY MS. FISHER:

19 Q Turning back to 20295, relating to the  
20 portion about Castle Water and Sewer. Do you have  
21 any recollection further than what is described here  
22 in the notes?

1 A No, I do not.

2 Q Do you recall whether this was the first  
3 time you learned of an issue relating to Jim Guy  
4 Tucker or Castle Water and Sewer?

5 A I don't recall ever hearing of it prior to  
6 this. I don't recall hearing of it, but I'm  
7 unfamiliar with the entire subject.

8 Q Up until the present time, did you ever  
9 gain any knowledge relating to Castle Water and  
10 Sewer?

11 A No.

12 Q Down on the bottom of 20296, there is  
13 discussion of Madison Guaranty and the examination of  
14 Madison Guaranty.

15 A Yes.

16 Q I take it this is what Mr. Gerth is  
17 relaying to Mr. Lindsey and yourself that Mr. Hale  
18 said about, just to be clear, about --

19 A Well --

20 Q Go on, please.

21 A This is information from Mr. Gerth. I am  
22 unclear as to now that he is quoting.

1 Q It could be information he gathered.

2 A But I don't know who he is quoting.

3 Q You do recall there was an issue discussed  
4 at the meeting about Madison being in trouble and  
5 needing to get money into Madison because the  
6 auditors were coming, the examiners?

7 A I know my notes record that. I can't tell  
8 you I remember it.

9 Q Other than what is in your notes, do you  
10 have an independent recollection?

11 A No, I don't.

12 Q Other than what is in your -- up to the  
13 present day, did you -- have you had any experience  
14 in learning any facts surrounding the audit or  
15 examination of Madison Guaranty?

16 A No. On the range of these issues, I wasn't  
17 schooling myself in the details of this transaction.

18 Q Do you recall whether this was the first  
19 time you learned of meetings or allegations of  
20 meetings between Bill Clinton and Jim McDougal and  
21 David Hale regarding loans?

22 A I don't recall when I first learned of that

1 or heard of that.

2 MR. SIMON: Do you have any recollection of  
3 hearing about it before this meeting?

4 THE WITNESS: No, no.

5 BY MS. FISHER:

6 Q Turning to 20298.

7 A Yes.

8 Q Down in the bottom where it says "1984,"  
9 please read what that says.

10 A "1984, Bill Clinton campaign debt that  
11 McDougal helped erase. Betsey Wright confirmed."

12 Q Is your understanding that Mr. Gerth was  
13 telling you what Betsey Wright had said, or is this  
14 something that -- is this information coming from  
15 someone else?

16 A Well, all of this information is from  
17 Mr. Gerth. I don't know that he is -- I can't help  
18 amplify my notes here as to whether he is quoting how  
19 he is getting this confirmed from Betsey Wright, if  
20 that's what you mean. I'm unclear how to read my  
21 notes. I know all of this is from Mr. Gerth, but it  
22 is not clear here from my notations the source of

1 that, whether that is Mr. McDougal or what. I don't  
2 know.

3 Q Could you go on reading on the next page.

4 A 99?

5 Q Yes, please.

6 A "Meeting no longer than 20 minutes. The  
7 purpose of loan (150,000 then to 300,000) was to  
8 'clean up' (McDougal words) the books, records at  
9 Madison so examiners wouldn't discover and criticize  
10 transactions that had indirectly benefited  
11 Whitewater. Not a loan from Madison to Whitewater  
12 but more indirect. McDougal and Bill Clinton  
13 participate in meeting. It was a natural thing.  
14 Bill Clinton said my name can't show up. Fact is:  
15 Hale said we could give security for the loan  
16 (meaning Bill Clinton offered Marion County  
17 Properties as security for loan). They were very  
18 nervous. Had to get done. Hale. This was a term  
19 Jim Guy Tucker used. Had to clean it up. Had to  
20 have money. Had something to do with" -- I don't  
21 know if that is "examiners" or "examination." It is  
22 unclear.

---

1 Q Do you have any further recollection of  
2 Mr. Gerth's discussion than what is on the notes?

3 A No, I do not.

4 Q Do you know who they, where it says "they  
5 were very nervous" referred to? Who is "they"?

6 A No, I don't know whether he is referring  
7 to -- I don't know. It is unclear here from my notes  
8 how one could interpret that.

9 Q Why don't you go on to the next page.

10 A 300?

11 Q Yes. This is getting tough to read.

12 A "He said we could offer security for files,  
13 we have land. Hale understood as land in" -- I don't  
14 know if that is Marion from the previous 299. I  
15 don't know. It seems like it could be Marion. "All  
16 I could remember was White something."

17 Q Who is the "he" referring to there?

18 A I don't know.

19 Q Is it Bill Clinton, President Clinton?

20 A I don't know if it is President Clinton or  
21 McDougal or Hale. I have kind of lost the thread of  
22 the conversation here.

1 The next sentence says "Understand Bill  
2 Clinton name couldn't be used," which I assume he was  
3 quoting --

4 MR. SIMON: Somebody other than Clinton?

5 THE WITNESS: Yes, somebody other than  
6 Clinton, and whether the prior sentence included  
7 Clinton, I'm not sure.

8 BY MS. FISHER:

9 Q Could you just go on reading.

10 A You bet. "Clear from meeting, lend Susan  
11 McDougal \$150. Because of problems Madison had for  
12 taking care of something else. Covered tracks but  
13 had to cover them too. Nothing said of what Susan  
14 would do with money. All making sure Bill Clinton  
15 name not used. Might be discovered by regulators."

16 Q Would that be referring to the Madison  
17 regulators?

18 A I don't know if it was state or federal  
19 regulators. I don't know.

20 Q But the regulation -- the regulators, that  
21 is a reference to Madison; correct?

22 A I don't know what Gerth is saying. One

1 could read it that way certainly.

2 Q Okay.

3 A Do you want me to keep reading?

4 MR. SIMON: Could you excuse me for just a  
5 second?

6 MS. FISHER: Sure, no problem.

7 (Recess.)

8 BY MS. FISHER:

9 Q I want to direct your attention to 20301,  
10 in the middle where it says FBI. If you could read  
11 that little portion there.

12 A "FBI and Department of Justice have traced  
13 this money this way so far. They believe money went  
14 to personal account of McDougal at Madison, then  
15 converted to two cashier checks (don't know to  
16 who.)"

17 Q Do you have any recollection independent of  
18 these notes about the discussion of the FBI and DOJ  
19 involvement in this matter?

20 A No, I do not.

21 Q Turning to 20306, could you read just  
22 starting where it says "Accordingly." Is that



1 accordingly?

2 A "According to David, handwritten note from  
3 Jim Guy Tucker saying here is pledge Worthen has lien  
4 on it. Note also says Clinton will help too. That  
5 note clipped to top of pledge documents. FBI seized  
6 this note. Can't produce it for New York Times."

7 Q Do you recall ever seeing a note that is  
8 described here, a note such as this?

9 A No.

10 Q Do you recall ever learning that such a  
11 note existed or did not exist?

12 MR. KRAVITZ: You mean other than this  
13 conversation related by Mr. Gerth?

14 MS. FISHER: That's exactly what I mean.

15 THE WITNESS: No, I do not.

16 BY MS. FISHER:

17 Q Turning the page to 20307, is this part of  
18 the same meeting, the same notes?

19 A I believe it is, yes.

20 Q This appears to be a discussion of  
21 Whitewater and tax records; is that correct? Is that  
22 a fair characterization?

1 A The headline is "Whitewater and Vince  
2 Foster."

3 Q Down at the bottom of 20308, where it says  
4 "Major question," are these the questions that  
5 Mr. Gerth asked to be answered?

6 A That's how I would read my notes.

7 Q And could you just read what the questions  
8 are?

9 A Certainly. "Major question. Where are the  
10 records of Whitewater Development Corporation and  
11 what has happened to them. Inventoried. Found or  
12 disappeared."

13 Q Do you recall whether you ever got the  
14 answer to that question, or is this the answer  
15 underneath that?

16 A I don't know that that is the answer or  
17 just more of Mr. Gerth's presentation.

18 Q That there was a box of documents --

19 A Yes, "Box of documents in Rose Law Firm or  
20 Whitewater 1-1/2 years ago." It would have been my  
21 practice to note if it was Mr. Lindsey indicating an  
22 answer.

1 Q The next page, 20309, says in the center  
2 there "Out to Podes meeting."

3 A I left the meeting at that point.

4 Q Did you then come back?

5 A I believe I did.

6 Q Was this a further discussion between you  
7 and Mr. Lindsey?

8 A No. I believe I came back. But this is  
9 the typical presentation of the questions or issues  
10 from a reporter question that I would have listed, 1,  
11 2, 3 and 4.

12 Q The second one says, if you could read  
13 that.

14 A "Number 2, Podes recollection of David Hale  
15 and recounted allegations or recanted allegations," I  
16 don't know.

17 Q Did you take any steps to answer this  
18 question?

19 A No, I did not.

20 Q Did you have any discussions with the  
21 President, his recollection of David Hale?

22 A No, I did not.

1 Q At any time?

2 A No, I did not, I don't believe so.

3 Q Did Mr. Lindsey at any time tell you what  
4 the President's recollection of his meetings with  
5 David Hale was?

6 A My information on this to answer reporters'  
7 questions was from Mr. Lindsey. I don't know who  
8 responded to Mr. Gerth in this instance.

9 Q What did Mr. Lindsey tell you?

10 A When?

11 Q About the answer to this question.

12 A I don't recall the answer to this question  
13 at this juncture.

14 Q At any time?

15 MR. SIMON: I think there is another  
16 document that may indicate involving a follow-up on  
17 this meeting that may have an answer.

18 THE WITNESS: The Steve Engelberg --

19 BY MS. FISHER:

20 Q We will get to that then.

21 A That's why I hesitated. It was not here  
22 anyway.

1 Q Number 4 on page 20310 appears to say "Jim  
2 Blair represented Clintons."

3 A Correct.

4 Q Do you recall what Mr. Blair's  
5 representation was of the Clintons?

6 A No. I only knew the Blairs to be friends  
7 of the Clintons.

8 Q Did you have any knowledge that they had  
9 provided legal representation to the Clintons?

10 A No.

11 Q Did you have knowledge at any time that  
12 Mr. Blair provided funds to Mr. McDougal to buy the  
13 Whitewater stock in late 1992?

14 MR. SIMON: My only question is this --

15 THE WITNESS: At this time?

16 MS. FISHER: Yes.

17 MR. SIMON: My only question is articles  
18 and stuff like that. He may have some knowledge, but  
19 it may not be accurate knowledge.

20 BY MS. FISHER:

21 Q If it is something you just learned in the  
22 press, just say so.

1 A I don't believe I had any information then  
2 as to that.

3 Q How about now?

4 A I am aware through the press accounts that  
5 there was some issue involving Mr. Blair before the  
6 President took office.

7 Q Other than what you have read in the paper,  
8 have you had any discussions relating to Mr. Blair's  
9 payment or provision of funds to Mr. McDougal to buy  
10 the stock of Whitewater?

11 A No.

12 Q As we sit here today, do you have any  
13 knowledge other than what you have read in press  
14 accounts that Mr. Blair provided other funds to  
15 Mr. Chris Wade or others relating to Whitewater?

16 A I don't know that at all.

17 Q At the end of this meeting with Mr. Gerth,  
18 did you have a discussion with Mr. Lindsey about the  
19 meeting and what Mr. Gerth had related to you?

20 A I don't recall. I don't recall a  
21 discussion with Mr. Lindsey.

22 Q Do you recall a discussion with Mr. Blair?

1 A No.  
2 Q Do you recall being present in the  
3 discussion between Mr. Lindsey and Mr. Blair?  
4 A No.  
5 Q Do you recall Bob Nash's name being raised  
6 at all after this meeting regarding the facts that  
7 Mr. Gerth had related to you?  
8 A Bob Nash?  
9 Q Yes.  
10 A No.  
11 Q Do you recall learning at any time  
12 subsequent to this meeting that Bob Nash was present  
13 at a meeting between Mr. McDougal and President  
14 Clinton back in the '80s?  
15 A No.  
16 Q Did you have any discussions with the  
17 President about this meeting?  
18 A No.  
19 Q The First Lady?  
20 A No.  
21 Q Other than Mr. Lindsey, did you have any  
22 discussions with anyone else at the White House about

1 this meeting?  
2 A I don't recall. I may have with  
3 Mr. Gergen, as I reported to him. Whether or not I  
4 would have mentioned this to him, I can't recall  
5 that, but I may have.  
6 Q I believe in your deposition of July 23,  
7 1994, when the deposition -- the deposition which  
8 concerned notes that you took at a meeting with --  
9 please look at these notes. I don't want to  
10 mischaracterize who the meeting was with, since I  
11 wasn't here in 1994.  
12 MR. KRAVITZ: It is probably the October  
13 14, 1993 White House-Treasury meeting.  
14 MS. FISHER: Right.  
15 MR. KRAVITZ: I haven't seen what you  
16 passed him, so I am guessing.  
17 BY MS. FISHER:  
18 Q Who was present at this meeting, to the  
19 best of your recollection?  
20 A I testified to this previously.  
21 Q I just don't have it right here.  
22 A That's all right. Mr. Nussbaum,



1 Mr. Lindsey. There may have been other members of  
2 the counsel's office. I believe Mr. DeVore from the  
3 Department of Treasury.

4 Q And RTC criminal referrals relating to  
5 Madison were discussed at the meeting?

6 A That was a meeting?

7 Q Or got brought up at the meeting.

8 MR. KRAVITZ: I believe the testimony from  
9 Mr. Gearan and several other witnesses back in 1994  
10 was that that was a meeting to discuss press  
11 inquiries relating to RTC criminal referrals.

12 MS. FISHER: Relating to Madison Guaranty.

13 MR. SIMON: I'm not sure -- to the extent  
14 you have any recollection today, but I think he has  
15 testified pretty much what he knows about this. I am  
16 a little hesitant to have him go back over it. Is  
17 there anything in here that would indicate to you  
18 that this related to Madison Guaranty?

19 MS. FISHER: Under "Sue Schmidt" it says --

20 THE WITNESS: What I recall of the meeting  
21 was a meeting to discuss the press response to this  
22 with the public affairs officials from the Department

1 of Treasury and myself. I was there for a brief  
2 period of time for the meeting.

3 BY MS. FISHER:

4 Q This meeting occurred on October 14?

5 A That's correct.

6 Q I believe in your deposition in 1994, you  
7 testified that this was one of the first contacts  
8 references that I can recall for Whitewater. This  
9 was not on my radar screen, Whitewater, at this point  
10 in time.

11 A That's correct.

12 Q Putting into context what we just  
13 discussed, the September 20th meeting which discussed  
14 Madison and the examination of Madison, et cetera, do  
15 you have a further recollection that indeed just a  
16 few weeks prior to the October 14th meeting you were  
17 in a meeting that discussed Madison and Whitewater?

18 A Well, I guess the only thing I would say  
19 today is I have no reason to dispute that that  
20 meeting was in September, if the notes join those  
21 facts. I would not have placed it then. I was at a  
22 meeting to hear a reporter's presentation of the

1 facts, the Gerth meeting. There was no other  
2 independent reporting of that, but all of that  
3 material that we just went through was from Jeff  
4 Gerth.

5 I don't -- beyond that, I would not have  
6 placed it in that time line. But again, I have no  
7 reason to dispute that.

8 Q Does it refresh your recollection now,  
9 knowing this meeting is on September 20th, that  
10 indeed there were Whitewater and Madison issues  
11 revolving around the White House or at least that had  
12 come to the attention of you and Mr. Lindsey?

13 A It does not refresh me, no.

14 MR. KRAVITZ: One point of clarification.  
15 Is what you are saying that as of the time that you  
16 gave that deposition testimony that Alice just read  
17 to you, which presumably is summer of 1994, in your  
18 mind as of October 14, 1993, you had not had  
19 discussions relating to Madison or Whitewater?

20 THE WITNESS: Yes, that's correct.

21 MR. SIMON: I think to this day Mr. Gearan  
22 actually thought that meeting took place afterwards,

1 because he has no recollection of anything before  
2 that meeting in Mr. Nussbaum's office on the 14th of  
3 October.

4 MR. KRAVITZ: "That meeting," you are  
5 referring to the Gerth meeting?

6 MR. SIMON: He has no recollection of  
7 anything relating to Whitewater prior to his meeting  
8 in October in Mr. Nussbaum's office relating to the  
9 press inquiries and the Treasury Department. That is  
10 his best recollection. It may not be an accurate  
11 recollection, but it is his best.

12 MR. KRAVITZ: Your recollection as of the  
13 summer of '94, when you gave this deposition to the  
14 Senate, was that the Gerth meeting occurred after the  
15 October 14th meeting with Treasury officials?

16 THE WITNESS: I don't think I was asked  
17 that in the summer of '94. If you were to ask me in  
18 the summer of '94 or today what was my first  
19 recollection, I would have put that October 14th  
20 meeting. Again, if it is two or three weeks earlier,  
21 I don't have any reason to dispute that. I would not  
22 have pegged it there, but that is the best of my

1 recollection then and today.

2 BY MS. FISHER:

3 Q Do you have a recollection of any further  
4 meetings that you had with Mr. Lindsey regarding the  
5 substance of what Mr. Gerth told you in the September  
6 20th meeting?

7 A I don't have a recollection of any other  
8 meetings other than there was the other document that  
9 exists from the other New York Times reporter.

10 Q Turning to S 20452 and S 20453, Mr. Gearan,  
11 are these your notes?

12 A Yes, they are.

13 Q And the telephone log indicates that it was  
14 a call from Mr. Engleberg on September 23, 1993. Do  
15 you believe that you took these notes contemporaneous  
16 with that date?

17 A I don't know when I took the notes.

18 Q Do you believe it was either September 23rd  
19 or shortly thereafter?

20 A I don't know.

21 MR. SIMON: For the record, Counsel, we  
22 have not had access to the documents from which this

---

1 was made, the original of the document from which  
2 this was made, so that we don't know whether or not  
3 it was simply Xeroxed this way or whether or not it  
4 was in fact written on this document or not. We  
5 don't know that. But I don't think Mr. Gearan is in  
6 a position to say that it wasn't written that day.

7 THE WITNESS: It could have been. I just  
8 don't know.

9 MR. SIMON: We don't know whether or not --  
10 maybe this was just a message that may have been the  
11 next day or it could have been months later. Who  
12 knows. The bottom line is it was -- certainly this  
13 message certainly appears to have come in on the  
14 23rd. It may well be that the notes were written the  
15 same day.

16 THE WITNESS: But my notes aren't dated.

17 BY MS. FISHER:

18 Q You have no recollection of when these  
19 notes were taken?

20 A No.

21 Q Is it your recollection that these were the  
22 questions Mr. Engleberg wanted answers to?



1 MR. SIMON: Do you recall having a  
2 discussion with Engleberg around this time or a  
3 discussion with Engleberg?

4 THE WITNESS: I don't recall a discussion  
5 with Engleberg, but this is the general format of  
6 reporter questions that I would list down to them  
7 information on.

8 BY MS. FISHER:

9 Q Over on the right hand, is that your  
10 writing?

11 A Yes. Do you want me to read it?

12 Q Yes.

13 A "No recollection. Doesn't believe it  
14 happened."

15 Q What does that refer to?

16 A I read that with question number 1, "does  
17 BC have recollection of meeting. No. So what  
18 happened."

19 I don't know if that notation refers to  
20 number 2 and 3 or not. My indication under number 1  
21 is clear. I don't know if that applies to 2 and 3 or  
22 not.

1 Q Do you recall who provided you with this  
2 information, that the President didn't recall?

3 A I believe it was Mr. Lindsey.

4 Q Number 4, could you read that for me?

5 A Yes. "Number 4, notion that indirect  
6 nature by Madison Guaranty to help Whitewater."

7 Q Do you recall what that refers to? Can you  
8 put that in any context?

9 A I don't recall today what Engleberg was  
10 asking here.

11 Q It is your recollection that this is  
12 another question?

13 A That would be the typical format, 1, 2, 3,  
14 4, 5, correct.

15 MR. SIMON: Format for what, so the record  
16 is clear?

17 THE WITNESS: Format for the way I would  
18 take notes listing reporter's inquiries.

19 BY MS. FISHER:

20 Q Read number 5, please.

21 A "Documents 1992 box at Rose Law Firm, fax  
22 messages to Gerth from Eller saying consulting boxes



1 at Rose. Susan T. said she had.

2 Sent someone to inventory them at Rose. In  
3 course of sale to McDougal. Couple of tax returns.  
4 No B. Where is the box? Not turned over the  
5 McDougal. Gerth given a balance sheet."

6 Q Do you have a recollection whether any part  
7 of this is an answer or all of it is a question?

8 A I don't have a recollection of that. My  
9 formatting of how I would take this would have noted  
10 the answer differently as number 1 is answered.

11 Q So, it would be your best recollection that  
12 the portion that says Susan T. said she had sent  
13 someone to inventory them at Rose would be something  
14 Mr. Engleberg was relaying to you?

15 A Correct. I would read the whole thing as  
16 an Engleberg question.

17 Q Would that be referring to Susan Thomases?

18 A That's how I would read that, yes.

19 Q Do you recall any follow-up to this  
20 question?

21 A I do not.

22 Q Other an attempt to get an answer?

1 A I do not.

2 Q Do you recall learning at any time  
3 subsequent to this of Whitewater documents being at  
4 the Rose Law Firm?

5 A I'm sorry. Could you repeat the question.

6 Q Do you recall learning at any time,  
7 subsequent to Mr. Engleberg asking this question or  
8 posing this question to you, of documents that were  
9 Whitewater documents located at the Rose Law Firm?

10 MR. SIMON: Again, excluding anything he  
11 read in the newspaper?

12 MS. FISHER: Yes.

13 THE WITNESS: No.

14 BY MS. FISHER:

15 Q And it would be your testimony that any  
16 answers or any attempt to get answers to these  
17 questions you would have directed to Mr. Lindsey?

18 A Yes.

19 Q Do you know what the reference here is to  
20 consulting boxes?

21 A I'm sorry?

22 MR. KRAVITZ: What page are you on? Oh, I

1 see.

2 BY MS. FISHER:

3 Q It is 453.

4 (Witness examined the document.)

5 A "Fax messages to Gerth from Eller saying  
6 consulting boxes at Rose."

7 I guess one could read that as messages  
8 were faxed to Gerth from Eller saying they were  
9 consulting boxes at Rose.

10 Q Who is Eller?

11 A Eller is Jeff Eller, who is a campaign  
12 staff member during 1992. But I don't know what that  
13 means.

14 MR. SIMON: Or do you even know if that is  
15 the same Eller?

16 THE WITNESS: I don't know, but that's who  
17 I presume it is.

18 BY MS. FISHER:

19 Q Did you know Susan Thomases at this time,  
20 as of September of 1993?

21 A Yes.

22 Q What was her role with regard to these

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70

1 issues?

2 A "These issues"?

3 Q Madison, Whitewater.

4 A In 1993?

5 Q In 1993.

6 A I don't know that she had any role in  
7 1993.

8 Q Did you have any discussions with her  
9 regarding Whitewater or Madison in 1993?

10 A I don't recall any, no.

11 Q Did she ever attend any meetings that you  
12 were at in 1993 with regard to Madison or Whitewater  
13 issues?

14 A No.

15 Q Do you have any knowledge of destruction of  
16 Whitewater documents at the Rose Law Firm?

17 A No.

18 Q Do you have any knowledge of the  
19 destruction of Whitewater documents at the White  
20 House?

21 A No.

22 MR. SIMON: Counsel, so that the record is

1 clear, particularly with regard to the Rose Law Firm,  
2 I assume you are excluding press reports.

3 MS. FISHER: I am excluding press reports.

4 BY MS. FISHER:

5 Q I don't want to ask you what you read in  
6 the press. But if somebody has come to you with a  
7 question that you follow up on or you had a  
8 conversation with someone about whether it did or  
9 didn't happen, then I do want that information, just  
10 to be clear.

11 Do you have any knowledge of any  
12 destruction of documents related to Whitewater or  
13 Madison during the 1992 campaign?

14 A No.

15 Q So, it would be your testimony that you  
16 have never discussed with anyone at the White House  
17 any destruction of Whitewater or Madison records that  
18 occurred during the 1992 campaign?

19 A Correct.

20 MR. KRAVITZ: Before we get into another  
21 set of meetings, would you mind if I just asked about  
22 five follow-up questions relating to the Gerth

1 meeting so we don't have to come back to it?

2 MS. FISHER: I don't mind.

3 EXAMINATION

4 BY MR. KRAVITZ:

5 Q Mr. Gearan, Ms. Fisher asked you questions  
6 about your notes from this meeting you attended in  
7 1993 with Jeff Gerth and Bruce Lindsey, and the notes  
8 were S 020292 through S 020310. Do you have any  
9 recollection of the substance of what was discussed  
10 at that meeting with Mr. Gerth independent of what is  
11 reflected in these notes?

12 A No. From that meeting?

13 Q Right.

14 A No.

15 Q Let me rephrase the question. Do you have  
16 any recollection of what was discussed at that  
17 meeting with Mr. Gerth and Mr. Lindsey other than  
18 what is reflected in your notes of the meeting?

19 A Other than what I have testified in answer  
20 to Ms. Fisher's comments, that it was in my office  
21 and those facts, no, I don't have any other  
22 independent knowledge.

1 Q In terms of your memory of what was said at  
2 the meeting, that is limited to what was in your  
3 notes of the meeting; is that accurate?

4 A That's correct.

5 Q Now, on page S 020 --

6 A I'm sorry. I turned it back in.

7 Q On page S 020292, the first page of your  
8 notes, your notes indicate that Mr. Gerth told you  
9 and Mr. Lindsey that David Hale was about to be  
10 indicted. Do you see that near the top of your  
11 notes?

12 A Yes, I do.

13 Q At any time following your meeting with  
14 Mr. Gerth and Mr. Lindsey in the fall of 1993, did  
15 you become aware of any efforts by any White House  
16 official to interfere with or otherwise influence any  
17 criminal investigation of David Hale?

18 A No.

19 MR. KRAVITZ: That's all I have on that  
20 subject. Thank you, Alice.

21 EXAMINATION

22 BY MS. FISHER:

1 Q Now, this is going to be kind of a task,  
2 because some of these pages are redacted and some of  
3 them are not.

4 A Should I give you this back?

5 Q You may need to keep that. You may need to  
6 refer to that at times.

7 Referring first to S 20564, it says  
8 "Whitewater January 4 meeting, Mac's office" at the  
9 top. It is in the new stack.

10 A Is it in here too?

11 Q It is, but a redacted copy is in there.  
12 Let's look at the new stack unless I tell you to look  
13 at the old stack. Maybe that will be the easiest way  
14 to do it.

15 A Got it.

16 MR. KRAVITZ: I see. These have all new  
17 numbers.

18 MS. FISHER: They do.

19 BY MS. FISHER:

20 Q Are these your notes, Mr. Gearan?

21 A Yes.

22 Q Do you recall this January 4th meeting in



1 Mr. McLarty's office? I am assuming Mac is referring  
2 to Mr. McLarty.

3 A Yes, that's right. I recall this period of  
4 time, yes.

5 Q Do you recall who attended this meeting?

6 A Mr. McLarty, Mr. Eggleston, Mr. Klein,  
7 Mr. Stephanopoulos, Mr. Gergen. For the series of  
8 meetings this week, I don't know that I can be  
9 precise at who is exactly the manifest for each  
10 meeting and who is at what meeting. I know by virtue  
11 of my notes that those people were at least in this  
12 meeting.

13 MR. SIMON: Was Mr. Ickes at the meeting?

14 THE WITNESS: Mr. Ickes was at the  
15 meeting. Let me make sure I am not missing anyone.

16 MR. SIMON: Mr. Nussbaum?

17 THE WITNESS: I don't know that he was at  
18 this meeting or not. He was at others.

19 BY MS. FISHER:

20 Q During this time frame, the first and  
21 second week of January 1994.

22 A Correct, yes.

1 Q Is there anyone else that you can recall  
2 that may have been present at this series of  
3 meetings? I won't ask you to say --

4 A Which ones? But you mean the whole range  
5 of meetings?

6 Q Yes.

7 A During the whole course of the week?

8 Q Yes.

9 A Mr. Nussbaum, Mr. Klein, Mr. Eggleston,  
10 Mr. Stephanopoulos, Ms. Myers, Mr. Ickes,  
11 Mr. Lindsey, Mr. Waldman.

12 Q Ms. Williams?

13 A I don't recall Ms. Williams. Ms. Caputo.

14 Q Did the First Lady attend any of the  
15 meetings?

16 A At the end of this meeting, she did come  
17 into the meeting. But I don't recall any of the  
18 other meetings she attended.

19 Q Did the President attend any of these  
20 meetings?

21 A No.

22 Q Did Mr. Quinn attend any of these meetings?

1       A    I cannot recall if he was there or not.  
2       Q    And Mr. Klein was deputy White House  
3 counsel at that time?  
4       A    That's correct, yes.  
5       Q    So, Mr. Klein, Mr. Nussbaum and  
6 Mr. Eggleston would have been there from the White  
7 House counsel's office. Is there anyone else that  
8 you recall from the White House counsel's office  
9 attending these meetings?  
10      A    No, to the best of my knowledge.  
11      Q    Mr. Kennedy?  
12      A    No.  
13      Q    Who called this particular meeting on  
14 January 4, 1994? Or how were you notified of the  
15 meeting?  
16      A    I can't recall. It was in Mr. McLarty's  
17 office, as you know, but I don't know how I was  
18 contacted.  
19      Q    Is it your best recollection that January  
20 4th is the first in the series of meetings?  
21      A    To the best of my recollection, based on my  
22 notes.

---

1       Q    Were they generally held in Mr. McLarty's  
2 office?  
3       A    No. Some were held in the Ward room in the  
4 White House.  
5       Q    In the what room?  
6       A    Ward, W-a-r-d.  
7       Q    Was Mr. Kendall present in any of these  
8 meetings?  
9       A    No, I don't recall him being present.  
10      Q    Mr. Barnett?  
11      A    No.  
12      Q    Ms. Thomases?  
13      A    No.  
14      Q    Going through the first meeting, January  
15 4th --  
16      A    I just want to make sure I have given you  
17 all the names.  
18           MR. KRAVITZ: Was Cliff Sloan present?  
19           THE WITNESS: No.  
20           BY MS. FISHER:  
21      Q    Let me ask you this. Was there kind of a  
22 division between all these individuals of who was

1 going to do what or who was there for what reason?

2 A Well, there were some tasks I had, for  
3 instance, as indicated here. The general approach at  
4 this period of time for this week period of time was  
5 to think through the press strategy of what would be  
6 responding to the drumbeat of stories and editorials  
7 and Congressional comments about the Whitewater  
8 matter.

9 There was an interest at that period of  
10 time to be more aggressive in our efforts to get the  
11 truth out about the circumstances surrounding this  
12 controversy.

13 Q What was the role of White House counsel  
14 there?

15 A As a participant. To advise, as a  
16 participant at the meeting. One of the subjects at  
17 the meeting, as the notes evidence, is the internal  
18 debate as to whether there would be a call for  
19 independent counsel or special prosecutor or special  
20 counsel in this matter.

21 Q So, also included in this meeting were  
22 issues other than those just relating to how are we

1 going to deal with the press? There was also  
2 internal debates about what we are going to do in  
3 general?

4 A Yes. The notes reflect the internal  
5 discussions that were held on whether there should be  
6 a call for an independent counsel or special counsel,  
7 as well as the intensive effort that would be made to  
8 get the facts out and the information out on this.

9 MR. SIMON: But the discussion of special  
10 counsel wasn't independent of discussions of the  
11 press, which I think at that time we are talking  
12 about?

13 THE WITNESS: As you can see from the  
14 notes, it is mixed in with that. The discussion of  
15 independent counsel was being called on by various  
16 members of Congress and editorials and so forth. It  
17 was both how to respond to those calls as well as the  
18 internal debate within the White House of whether --

19 BY MS. FISHER:

20 Q What position the White House was going to  
21 take?

22 A What we were going to do, right, of

1 course.

2 Q If you could just start reading your notes  
3 here, and probably the best thing is for me to stop  
4 you when I have a question. If you start with Neil,  
5 that is referring to Neil Eggleston?

6 A Correct. "Documents to Department of  
7 Justice. Then questions turned up and not off.  
8 Continued questions for release. Federal grand jury  
9 in Arkansas (U.S. Attorney recused). Career  
10 prosecutor named. Investigating referral from RTC on  
11 Madison. Documents may have relevance to grand jury  
12 for investigation of diversion of funds from Madison  
13 to Whitewater."

14 Q Let me stop you there. This is all being  
15 reported by Mr. Eggleston?

16 A Correct, that's how I read that.

17 Q What documents is this being referred to  
18 here, the documents that were turned over to the  
19 Department of Justice in December?

20 A That's correct. That's how I would read  
21 that.

22 MR. KRAVITZ: Alice, I think just for the

---

1 clarity of the record, we ought to state that the  
2 portion that Mr. Gearan just read actually includes  
3 -- as you can see, there is a little asterisk in  
4 there. Do you see that, Mr. Gearan?

5 THE WITNESS: Yes.

6 MR. KRAVITZ: Something has been redacted  
7 out of there. Right before your deposition began  
8 today, there was a meeting between members of the  
9 White House counsel's office and Majority and  
10 Minority counsel of the Senate committee, and there  
11 was an agreement reached as to information or entries  
12 in your notes that would be redacted.

13 So, when Ms. Fisher is having you read  
14 these notes, you need to understand and the record  
15 needs to be clear in some instances you are actually  
16 reading incomplete portions of your notes. But it is  
17 all by agreement between the Senate committee and the  
18 White House as to what would be redacted.

19 THE WITNESS: Thank you.

20 BY MS. FISHER:

21 Q Just keep reading.

22 A "Documents under jurisdiction of federal



1 prosecutor now. Clamor now is any career prosecutor  
2 is subject to control of politics. Career prosecutor  
3 has documents. Joel Klein two concerns."

4 Q Is this Joel Klein speaking?

5 A Yes. "Public perception of independent  
6 counsel a la Watergate. Every time we move, New York  
7 Times says jump higher. Risk of Attorney General  
8 getting out front and naming a counsel before White  
9 House leadership."

10 Q Let me stop you right there. What do you  
11 recall about the discussion regarding what you just  
12 read, which is "Risk of Attorney General getting out  
13 front and naming counsel before White House  
14 leadership"?

15 A I recall the issue at the time, because  
16 there was considerable drumbeat, as I said, on this  
17 issue as well as others and calls for independent  
18 counsel, that if the Attorney General called for a  
19 special counsel in this instance before the White  
20 House did, there would be a risk of the Attorney  
21 General being out front of the White House effort to  
22 be as helpful and forthcoming as possible.

---

1 Q So, if I understand you correctly, the  
2 concern was that if the Attorney General appointed an  
3 independent counsel before the White House called for  
4 it, the White House wouldn't get the benefit of  
5 calling for it, the public perception benefit?

6 A I think Mr. Klein would agree with that.

7 Q Did anyone else have a viewpoint as to  
8 that?

9 A I don't recall. I think it is a viewpoint  
10 with understandable merit.

11 Q Other than Mr. Klein, did anyone else  
12 express concern of a risk that the Attorney General  
13 was going to appoint a counsel before White House had  
14 a say in it or before the White House -- I don't want  
15 to mischaracterize it -- before the White House  
16 called for it?

17 A I'm sorry?

18 Q Was there anybody else other than Mr. Klein  
19 expressing a viewpoint at the meeting about that?

20 A I don't recall.

21 Q To your knowledge?

22 A I don't recall.

1 Q Did you express a viewpoint as to that?

2 A I don't believe so. Do you want me to keep  
3 going?

4 Q Yes.

5 A "Under statute, Attorney General has to go  
6 to court and court appoints. Without statute,  
7 Attorney General can appoint. Neil," Neil  
8 Eggleston. "Turning over papers brought  
9 Congressional credibility for a week or so. "GS,"  
10 George Stephanopoulos, "10 stories, each two or three  
11 days, 40 days of stories and we will be up 39  
12 percent, like 1993 with gays in the military.

13 Q What does 39 percent mean? In the polls?

14 A I would read my notes to be the President's  
15 position in the polls.

16 MR. SIMON: His approval rating?

17 THE WITNESS: Yes, in 1993. "DG" is David  
18 Gergen. "Independent counsel operates differently  
19 than criminal prosecutor. They take on a life of  
20 their own."

21 BY MS. FISHER:

22 Q Do you recall any discussion about this

1 statement by Mr. Gergen other than what is reflected  
2 in your notes?

3 MR. SIMON: At this time or at subsequent  
4 meetings?

5 BY MS. FISHER:

6 Q At the January 4th meeting.

7 A No, no, I don't.

8 Q To the best of your knowledge, what was  
9 Mr. Gergen trying to convey at that time?

10 A I think there is the difference between --  
11 he was seemingly -- he was from my notes seeming to  
12 observe the difference between an independent counsel  
13 and a criminal prosecutor, that the criminal  
14 prosecutor would take on a life of its own.

15 Q That the criminal prosecutor would take on  
16 a life of its own, not the independent prosecutor?

17 A The independent prosecutor.

18 Q They were expressing a concern that the  
19 independent counsel could take a life of its own?

20 A I don't know that it was a concern. My  
21 notes, that was his observation.

22 Q That would refer to the scope of what the

1 independent prosecutor was looking into?

2 A I don't know what his --

3 Q Can you provide any more context than what  
4 is written here?

5 A I can't, other than what is written here.

6 MR. SIMON: What did you understand it to  
7 mean?

8 THE WITNESS: That this takes on a life of  
9 its own, that this can go on for some period of  
10 time. I don't know that he meant that as scope or  
11 what his reasons would be for this.

12 BY MS. FISHER:

13 Q Could you go on reading.

14 A "Joel and Joel Klein new information, no  
15 special prosecutor. You can try one at a time. Call  
16 her own press conference."

17 Q What did you understand him to mean or what  
18 do you understand your notes to mean, "you can try  
19 one at a time"?

20 A I don't know what that means. When I had  
21 reviewed this, this was cut off. It is the first  
22 time I have seen it. "You can try one at a time." I

1 don't know.

2 Q Is this the first time that you have seen  
3 the unredacted version?

4 A This is the first time that I have seen the  
5 bottom of this page.

6 MS. FISHER: Did you all get copies that  
7 were redacted?

8 MR. SIMON: Yes. But we also had some of  
9 the unredacted, but this particular page and a number  
10 of others were not copied with exactly the greatest  
11 proficiency.

12 MS. FISHER: Do you want to take a minute  
13 to review the new copies with your counsel?

14 THE WITNESS: Sure.

15 MR. SIMON: That would be very helpful.

16 MS. FISHER: Let's take 10 minutes.

17 (Recess.)

18 BY MS. FISHER:

19 Q I want to ask you a question about what is  
20 over to the side here, 20565, where it says "Call her  
21 own press conference." Who is the her? Who is that  
22 referring to?

1 A I guess I would read that as the Attorney  
2 General.

3 Q And was there discussion that she should  
4 call a press conference that you recall?

5 A No, only that she could, which I would read  
6 in conjunction with the first point at the top of the  
7 page, that the Attorney General could announce this  
8 on her --

9 Q Could you --

10 A -- on her own out front naming a counsel.

11 Q Do you have an understanding whether anyone  
12 at the White House had talked to the Attorney General  
13 about this issue prior to the January meeting?

14 A No.

15 Q Going to the next page, 20566, could you  
16 read what is there.

17 A "HRC enters. Looks like a meeting I might  
18 be interested in. Watergate committee."

19 Q What is your recollection of what happened  
20 at that time?

21 A I recall that Mrs. Clinton came in and we  
22 had -- there was a discussion about again the issue

1 of whether there should be a call for a special  
2 counsel or an independent counsel or not.

3 She stated the view as Bernie and others  
4 have elsewhere here, that there were distinctions in  
5 this instance from the Watergate committee which she  
6 of course worked on, but this did not involve  
7 government wrongdoing, that there was not -- no one  
8 had ever stated a credible charge by senior official,  
9 that the usual standard for an independent counsel  
10 being called was not met. And that was the  
11 discussion.

12 Q So, we have reached something that you  
13 recall that is not in your notes, basically. This is  
14 what you recall her coming in and saying on January  
15 4th?

16 A Well, especially when Mrs. Clinton comes  
17 in, yes, I am able to remember it.

18 MR. SIMON: And he was actually able to  
19 understand what she was saying.

20 BY MS. FISHER:

21 Q Did Mrs. Clinton express a view at that  
22 point, whether an independent prosecutor should be



1 appointed?

2 A Yes. It was her view that they had done  
3 nothing improper, that the standard was not met, that  
4 documents had been turned over to the Department of  
5 Justice.

6 Q Did anyone at that time express a  
7 dissimilar view?

8 A I can remember George Stephanopoulos  
9 expressing the view that it could be helpful for the  
10 credibility of the White House for us to call for  
11 this special counsel, independent counsel, given the  
12 drumbeat that was in the press and in the public  
13 domain.

14 Q Other than Mr. Stephanopoulos, did anyone  
15 else express a view dissimilar to Mrs. Clinton's?

16 A At that meeting I don't recall anyone else,  
17 no.

18 Q Do you recall anything else about this  
19 meeting?

20 A No, I don't. I believe it then broke up.  
21 No, I don't recall, beyond that conversation.

22 Q Was there an attempt made at the end of the

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1 meeting to schedule another meeting?

2 A I don't recall.

3 Q Do you recall how long Mrs. Clinton was  
4 present at the meeting?

5 A I would say about 10 minutes, but I can't  
6 put it exactly.

7 Q Is it your best recollection that after she  
8 left -- she left when the meeting broke up?

9 A I don't know if she stayed behind with  
10 Mr. McLarty or not. I don't know. I don't know  
11 where she went, if that's what you mean.

12 Q Do you recall any discussions with anyone  
13 at the White House after that meeting?

14 A Regarding --

15 Q Between this meeting, January 4th, and the  
16 next meeting, which appears to be January 5th, do you  
17 recall any discussions that you had with anyone else  
18 at the White House regarding any of these issues?

19 A I don't recall any specific instance. I do  
20 know during the course of that week the question of  
21 this independent counsel, special counsel or not was  
22 an internal issue as well as our efforts to try to

1 have this external effort made to try to get our  
2 story out.

3 Q Turning to the next page, which is now  
4 marked 20567. It appears to be another meeting,  
5 January 5th. Do you recall who attended this  
6 meeting?

7 A My notes list Bernie Nussbaum, Joel Klein,  
8 Mr. McLarty, David Gergen, Harold Ickes. Again, I  
9 can't -- that's who my notes record. There could  
10 have been others in the room. I can't say with any  
11 assurance whether Mr. Lindsey was there, or  
12 Mr. Stephanopoulos. I just don't know.

13 Q What was Mr. Ickes' position at this time?

14 A He had just been named deputy chief of  
15 staff and he had just started at the White House at  
16 the beginning of January.

17 Q Was he replacing someone?

18 A Mr. Neil, Roy Neil.

19 Q Could you just read.

20 A Certainly.

21 Q They are fairly legible. I'm not  
22 completely --

1 A That's fine. "Bernie, no substantive  
2 difference in independent counsel versus prosecutor.  
3 If appointment outside as counsel or prosecutor  
4 subject to no control and come in with desire to get  
5 someone. Even if a good-hearted Nussbaum would worry  
6 how it he goes back to New York City and doesn't  
7 indict anyone. You will have a three- to four-year  
8 investigation. Lives will be under a microscope.  
9 After three years, good-hearted Nussbaum will have  
10 written 400-page report. Bad-hearted guy goes in and  
11 decides a smell of corruption and can show some  
12 things of those people close around. Instance where  
13 it has worked, Billy Carter, Paul Curran (a client of  
14 mine) appointed for six to nine months, wrote report,  
15 didn't expand and went home. He is a rare guy."

16 Q What did you understand Mr. Nussbaum to be  
17 saying at that point?

18 MR. SIMON: Hold on. Do you want to look  
19 at what you just got?

20 MS. FISHER: I was just going to flip  
21 through them. They just appear to be phone logs, and  
22 I just want to make sure that -- let's go off the

1 record for a second.

2 (Pause.)

3 BY MS. FISHER:

4 Q What did you understand Mr. Nussbaum's  
5 concern to be where he says "If appointment outside  
6 as counsel or prosecutor subject to no control and  
7 come in with a desire to get someone"?

8 A Well, I had understood during this entire  
9 period Mr. Nussbaum was a forceful opponent of the  
10 President calling for an independent counsel or  
11 special counsel for the reasons he lists here. And  
12 during the course of this week, he was very vocal at  
13 the sessions in his belief that it would -- well, in  
14 his words, have a three- to four-year investigation  
15 and in the instances he cites.

16 So, the entire argument he is making here  
17 and elsewhere during the week was against calling for  
18 any counsel.

19 MR. SIMON: Did he give an alternative?

20 THE WITNESS: No. He said at one point he  
21 would have preferred a Congressional investigation to  
22 calling for an independent counsel.

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1 BY MS. FISHER:

2 Q Why is that?

3 A I don't remember why, what his views were  
4 then. I think just that that would even be better  
5 than a protracted period of time and the pressure on  
6 the individual counsel or prosecutor to prove  
7 something.

8 Q What did he mean by "subject to no  
9 control"?

10 A I guess I would read that that there is no  
11 control on an independent counsel.

12 Q As opposed to a criminal prosecutor from  
13 the Department of Justice?

14 A No, I don't know that he would say that. I  
15 think it is just reflective of the independence of an  
16 independent counsel, that there is no control, and  
17 that is a fact of the process.

18 Q Do you have any greater understanding as to  
19 what he meant by no control? Whose control and what  
20 control?

21 A I don't. I guess I would just read it that  
22 the independence could lead to the points that he



1 makes. But I don't know beyond that.

2 Q Well, reading up above where it says "No  
3 substantive difference in independent counsel versus  
4 prosecutor," does that put into context that he was  
5 talking about the difference between the two  
6 procedurally, that there may be control over a  
7 prosecutor, but with independent counsel there is no  
8 control?

9 A I don't know, or you could read it as no  
10 substantive difference in the independent counsel or  
11 the special prosecutor. There the substantive  
12 difference -- that he does not see any substantive  
13 difference.

14 What I remember most about this is his very  
15 ardent opposition to calling for an independent  
16 counsel.

17 Q And the alternative at this point was to  
18 leave it with Mr. Mackay, who was running the  
19 investigation within the Department of Justice?

20 A Correct. "Joel, other special counsel have  
21 been painless, Iraqgate, banking scandal. BN Bernie  
22 Nussbaum, Nick Bowen was investigating whether

1 Department of Justice took computer services away  
2 from INSLAW, not as sexy as President of the United  
3 States. Iraqgate didn't touch conduct of the  
4 President of United States. It was whether counsel's  
5 office. It depends on person. Joel, independent  
6 prosecutor pursuant to a statute trigger method out  
7 of Department of Justice. Court would have picked  
8 Walsh. Can only be dismissed for cause, Donovan,  
9 Hamilton Jordan, Walsh."

10 Q Can you explain to me what you understood  
11 that exchange to be other than what is reflected in  
12 the notes?

13 A I think it was just their discussion of  
14 prior special counsels and the different  
15 circumstances that they worked under and the fact  
16 that in Mr. Nussbaum's view, they didn't have the  
17 kind of prominence because it wasn't concerning the  
18 President of the United States directly.

19 Q What was Mr. Klein -- what did you  
20 understand Mr. Klein to be saying when he said "Court  
21 would have picked Walsh"?

22 Let me rephrase that. Was there any



1 discussion of a concern that the court would be the  
2 one that would pick the independent prosecutor?

3 A No, I don't recall that. I can't recall  
4 Klein's specific point here. He is outlining how the  
5 process works. "It can only be dismissed for cause,  
6 special counsel before the law passed, Cox, Jaworski  
7 appointed by the Attorney General without the court,  
8 Republicans bill bar use special counsel quite  
9 cleverly. They packed people."

10 Q Could that be "picked"?

11 A It could be "picked." "Picked people.  
12 Bowen, Lacey as judge."

13 Q Does it refresh your recollection that  
14 there was a discussion of whether -- if there was an  
15 independent counsel, who would appoint them, whether  
16 it was the court, whether it was the Attorney  
17 General?

18 A No. I guess I remember a generalized  
19 discussion of the legalities and process that would  
20 exist for the appointment and who would do it. But I  
21 remember most was just as I have said, the general  
22 opposition to it.

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1 MR. SIMON: Could this be a way of  
2 distinguishing between the different experiences of  
3 good experiences and bad?

4 THE WITNESS: Yes. I think Joel says at  
5 the top "Other special counsels have been painless."  
6 Bernie's point on the previous page is that Paul  
7 Curran was a rare guy. It was kind of -- it reads  
8 like their discussion of previous special counsels  
9 and their views about their tenure.

10 BY MS. FISHER:

11 Q Did Mr. Klein express a view as to whether  
12 an independent counsel should be appointed at this  
13 point?

14 A I don't recall Mr. Klein's view  
15 specifically.

16 MR. SIMON: Do you recall at any point  
17 during this week did he express a view?

18 THE WITNESS: I think he and Mr. Nussbaum  
19 were always observing their legal view and their  
20 arguments on the downsides of the Special Counsel.

21 BY MS. FISHER:

22 Q Could you go on in reading.

1 A You bet. "Mac. Let's get off whether we  
2 will have special prosecutor or counsel. Hillary  
3 Rodham Clinton and Bill Clinton don't want it.  
4 Discussion where we go from here."

5 Q So, could you explain to me what your  
6 understanding was at this point of what Mr. McLarty  
7 was saying.

8 A I would read it that Mac interjecting at  
9 this point brought an end to the previous two-page  
10 discussion of whether or not we were going to have it  
11 since the President and Mrs. Clinton did not want it  
12 to call for a special counsel. And our discussion  
13 should turn to where we go from here, what we should  
14 be doing, given the President's decision not to call  
15 for a special counsel.

16 Q Is it your recollection that you knew prior  
17 to this time that the President didn't want to  
18 appoint an independent counsel? We previously  
19 discussed the First Lady's view.

20 A I don't know when I first learned of it. I  
21 was aware of the President's and Mrs. Clinton's view  
22 during this period, but for the reasons I have

1 outlined, that they did not feel that there should be  
2 a call for special counsel.

3 Q So, their views were similar on the  
4 subject?

5 A Yes, that is my understanding. "BN,"  
6 Bernie Nussbaum, "Kendall will prepare a white paper  
7 on the Clinton story on Whitewater. It may take two  
8 weeks. Prepare this along with Q and As on specific  
9 issues. At some appropriate time we release this  
10 statement. McLarty: like the traffic office  
11 report. David Gergen: It is different due to  
12 conversations versus documents."

13 Q I want to stop you there. What was your  
14 understanding at this point as to what Mr. Kendall  
15 was going to do and what Mr. -- or what people at the  
16 White House were going to do? Was it that  
17 Mr. Kendall will prepare the white paper and the  
18 White House will prepare Q and As?

19 A Yes, that's how I would read these notes.

20 Q And do you have an understanding of what  
21 the White House counsel's role was going to be with  
22 regard to that?

1 A Regard to the Q and As?

2 Q Yes.

3 A My understanding is that they would be  
4 working on the Q and As, I guess, on the specific  
5 issues and the synopsis.

6 Q Is it your best recollection that  
7 Mr. Kendall was not present at this meeting?

8 A That's correct.

9 Q What did you understand Mr. McLarty's  
10 comment "Like travel office report" to mean?

11 A I would read it that Kendall would prepare  
12 this white paper, that we would prepare extensive Q  
13 and As and then a statement and release that in its  
14 entirety, as he had released the travel office  
15 management review.

16 Q Was that a Q and A-type document?

17 A It was an extensive chronology and synopsis  
18 and then recommendations and guidelines of how the  
19 travel office should have been handled and should be  
20 handled in the future. I think that is what he was  
21 likening it to.

22 Q What did you understand Mr. Gergen's

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1 comment to mean?

2 A I think he was observing -- I would read  
3 this as the difference between the travel office  
4 report and this suggested white paper, that the  
5 travel office report and management review that  
6 Mr. McLarty did was based on conversations with the  
7 affected staff members and so forth, whereas the  
8 white paper, Kendall is preparing involved  
9 documents.

10 So, it was a different kind of product that  
11 would have to be produced. That's how I would read  
12 that.

13 Q If you want to go on reading, and you can  
14 delete the expletives.

15 MR. SIMON: You are reading from the bottom  
16 of 569. I do appreciate your sensitivity to the  
17 deletion of expletives.

18 MS. FISHER: If you could just say  
19 "expletive" whenever an expletive comes up. That  
20 probably is the best way to address the situation.

21 THE WITNESS: "Harold Ickes: Discussion of  
22 counsel is the biggest [expletive] waste of time.



1 Discuss production, press strategy, spokesperson."

2 BY MS. FISHER:

3 Q At this time, who was the spokesperson?

4 A It was Bruce Lindsey at this time.

5 Q Was there anyone else who was the  
6 spokesperson?

7 A No. He was the principal respondent to the  
8 bulk of the Whitewater questions. Whether Dee Dee  
9 Myers received individual questions during the press  
10 briefings, it was her practice to refer reporters to  
11 Mr. Lindsey. But she may have taken some questions.

12 Q Is it your recollection that Mr. Ickes was  
13 somewhat animated when he made this statement?

14 A I think it is certainly Mr. Ickes' style to  
15 move along a meeting agenda and not to waste any  
16 time. He does that with considerable style.

17 Q What is your understanding of why he  
18 thought it was a waste of time?

19 A Oh, because the President and  
20 Mrs. Clinton -- I would read this as similar to  
21 Mr. McLarty's comment, that the President and  
22 Mrs. Clinton --

1 Q Had made their decision?

2 A Had made their decision.

3 Q Okay.

4 A "Joel Klein: In a couple of hours draft of  
5 Q and As need to be approved by Kendall and Hillary  
6 Rodham Clinton. David Gergen: Highest-priced law  
7 firm and no facts."

8 Q What law firm is being referred to there?

9 A I would read this --

10 MS. FISHER: Actually, why don't we go off  
11 the record for a second.

12 (Discussion off the record.)

13 BY MS. FISHER:

14 Q Do you recall what law firm was being  
15 referred to there?

16 A I would read my notes as saying that they  
17 were referring to the Kendall law firm.

18 Q What do you understand that Mr. Gergen was  
19 expressing at this time?

20 A I think this was consonant with our general  
21 thought during this period of time, that in order to  
22 have this affirmative effort to get our story out



1 about the facts on this matter, we needed to have a  
2 synopsis and Q and As and history and so forth. I  
3 think the fact that it did not already exist for  
4 preparation would take some period of time was  
5 reflected in Mr. Gergen's concern there or  
6 consternation.

7 Q That's what the "no facts" refers to? No  
8 chronology?

9 A Yes. It is chronology or synopsis or some  
10 of the things we wanted to provide.

11 Q So, is it your understanding that Mr. Klein  
12 was going to prepare draft Q and As in a couple of  
13 hours and then give them to Mr. Kendall to sign off  
14 on and give them to Mrs. Clinton to sign off on?

15 A That's how I would read it. I don't know  
16 whether he did it personally. I don't know how he  
17 was doing it. That's how I would read my notes.

18 Q If you could go on.

19 A "Harold Ickes: Push us quick with lawyers  
20 and Q and As and argumentative document. Get the  
21 argument on why not a special counsel. No evidence  
22 of wrongful acts. Can't appoint someone every time

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1 there is a charge. There has to be a basis.  
2 Republican appointee is running investigation. Grand  
3 jury is citizens available to look at evidence and an  
4 independent Attorney General."

5 Q Is it your understanding that this is  
6 Mr. Ickes just presenting his view as to what needed  
7 to be done?

8 A Well, I guess I would read this that this  
9 is a summary of the argument on why we are not  
10 calling for a special counsel at this time, that  
11 there is no evidence of wrongful acts, can't be  
12 appointing someone every time there is a charge,  
13 there has to be a basis and a Republican.

14 These are kind of points that he was  
15 making, and that we have an independent Attorney  
16 General, which I believe become somewhat of the  
17 centerpiece of some of the talking points that have  
18 been provided to you.

19 Q That being the notes?

20 A Yes.

21 Q Do you have any knowledge whether Mr. Ickes  
22 was brought on to the White House to deal with these

1 kind of issues or how he was brought into the loop  
2 with these issues?

3 A I don't know how he was. I don't know what  
4 conversations he might have had with Mr. McLarty. I  
5 understood that one of the -- as part of his  
6 portfolio, he would be the point person coordinating  
7 this effort to try to get our story out and get the  
8 truth out about this matter.

9 Q And you had that understanding before he  
10 came to the White House?

11 A I don't know. But I certainly had it --

12 Q Once he got there?

13 A Yes.

14 Q Do you have any knowledge of who brought  
15 Mr. Ickes into the White House, whose idea it was?

16 A I don't know. Mr. Ickes was a member of  
17 the President's campaign staff as well as the  
18 transition. I assume it was Mr. McLarty. But the  
19 President had known Mr. Ickes for some time.

20 Q Were you aware or did you have any  
21 knowledge that Mr. Ickes worked with Mrs. Clinton on  
22 any legal matters before she came to the White House?

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1 A On legal matters? No, I'm not aware of  
2 that.

3 Q Were you aware whether Mr. Ickes and  
4 Mrs. Clinton had a working relationship prior to  
5 Mr. Ickes coming to the White House?

6 A Outside of the campaign?

7 Q Yes.

8 A No, I'm not aware that they had any  
9 relationship.

10 Q Is it your understanding, going up to the  
11 top, that the Q and As needed to be approved by  
12 Mr. Kendall and the First Lady, is it your  
13 understanding that the President would not have to  
14 review; Mrs. Clinton would be the point of contact on  
15 these issues?

16 MR. KRAVITZ: It says "and Kendall."

17 MS. FISHER: And Kendall.

18 THE WITNESS: You know, I would read this  
19 as they would be drafted in the counsel's office, and  
20 I assume that Mr. Lindsey and the counsel's office  
21 would have cleared them through that process, that it  
22 would also have to be cleared by Mr. Kendall and

1 Mrs. Clinton. It doesn't say the President. I would  
2 not think it would necessarily have to be approved by  
3 him, although he may have seen it. I don't know.

4 BY MS. FISHER:

5 Q Your participation in these meetings that  
6 go on in the first couple weeks of January, was it  
7 your understanding that most of the questions would  
8 go to Mrs. Clinton rather than the President?

9 A Most of the questions from?

10 Q If questions came up during the meetings.  
11 What I'm trying to get at is if she was the point of  
12 contact as opposed to the President on these issues,  
13 where she was the one expressing a view more so than  
14 the President.

15 A No. I think that the President's view on  
16 the Independent Counsel was well known, that he did  
17 not think that it should be called for at this period  
18 of time.

19 I guess I would suggest that if there were  
20 factual questions because some of this dealt with her  
21 legal work, that it would be approved by her. But I  
22 think the principal review was really their lawyer,

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1 David Kendall.

2 Q "Legal work," meaning Mrs. Clinton's legal  
3 work while at the Rose Law Firm related to Madison  
4 Guaranty?

5 A Or whatever, yes. That would be my  
6 understanding, yes.

7 Q Were there other instances where her legal  
8 work was discussed in the context of these meetings  
9 other than the work she did at the Rose Law Firm for  
10 Madison Guaranty?

11 A No.

12 Q Turning to the next page, is this still  
13 Mr. Ickes speaking at this point?

14 A I don't know. I would read it as such,  
15 that that was the other point to his initial point of  
16 why not a special counsel, that we have Donald  
17 Mackay, 1971, 1975, Nixon, Ford, U.S. Attorney,  
18 southern district of Illinois, then the Illinois  
19 Department of Tax, 1991 to Department of Justice  
20 career. The three points, no credible evidence,  
21 documents over, they have done enough, matter of  
22 principle/bad politics."



1 Q Is it your recollection that Mr. Ickes was  
2 saying matter of principle/bad politics?

3 A I can't recall, but there is no other  
4 notation that anyone else said it. I think it is all  
5 joined to the general points as to why not a special  
6 counsel from the previous page as well.

7 Q What is your understanding of what is meant  
8 by bad politics?

9 A There is an acknowledgment that this is a  
10 matter of principle for the President. It would  
11 certainly be bad politics given the drumbeat and the  
12 press interest and the Congressional interest and the  
13 editorial interest that were calling for an  
14 independent counsel. He viewed this as a matter of  
15 principle, that there was not enough there to demand  
16 an independent counsel.

17 MR. KRAVITZ: Just so the record is clear,  
18 what you are saying is that not calling for an  
19 independent counsel was what was viewed as being bad  
20 politics?

21 THE WITNESS: Yes, that's correct, that in  
22 not calling for an independent counsel or special

1 counsel, this was a matter of principle, that it is  
2 potentially bad politics, I think is the point of  
3 that statement.

4 BY MS. FISHER:

5 Q To the best of your recollection, was the  
6 First Lady present at this meeting?

7 A No, she was not.

8 Q Did you have any discussions after this  
9 meeting on January 5th with anyone regarding the  
10 substance of what was discussed at the meeting?

11 A I don't recall.

12 MR. SIMON: Just so that we can clarify, is  
13 it possible that during that week you have indicated  
14 there were a number -- a big topic of conversation  
15 was whether there ought to be one or whether there  
16 ought not to be one. Could there have been  
17 discussions of that nature outside?

18 THE WITNESS: I can help the Committee and  
19 say I don't recall a specific instance. But there  
20 may have been; I just can't recall it for you.

21 BY MS. FISHER:

22 Q Do you recall, other than what is described



1 in your notes, anything independent about this  
2 meeting?

3 MR. SIMON: I think he has indicated some  
4 things about it.

5 BY MS. FISHER:

6 Q Other than what you have testified to.

7 MR. SIMON: Want to take a look at the  
8 notes and see whether there is anything? I guess my  
9 problem is, I understand we had spoken outside about  
10 the general issue. I absolutely understand. I am  
11 just trying to see whether or not -- you have been  
12 focusing on very specific entries, et cetera.

13 In terms of whether or not you want to take  
14 a second to reflect on whether or not you can have  
15 any specific recollection of this meeting as opposed  
16 to the whole series of meetings reflected in the  
17 notes provided to you by the Committee.

18 THE WITNESS: I can't beyond what I said.

19 BY MS. FISHER:

20 Q Were you tasked to do anything at the end  
21 of the meeting?

22 A I don't believe so. It doesn't seem to

1 indicate that.

2 Q Do you recall this being a smaller meeting  
3 than the January 4th meeting? "Smaller" meaning not  
4 smaller in time but smaller in the amount of people  
5 that were present.

6 A I cannot say. I can't put the exact number  
7 of players -- participants in each.

8 MR. SIMON: Do you have a recollection that  
9 there were significant variations in the number of  
10 people who were attending these meetings from meeting  
11 to meeting?

12 THE WITNESS: No. I think there was a  
13 central core of people, but --

14 BY MS. FISHER:

15 Q You don't recall, for example, people  
16 getting eliminated as the week went by?

17 A No.

18 Q Do you recall who was responsible for  
19 inviting anyone to this meeting?

20 A No. I don't know where this meeting was.  
21 Given that Mr. McLarty was there, it could have well  
22 been in his office. Some of the others, as I said,

1 were in the Ward room.

2 Q Do you know who made the decision about who  
3 would attend these meetings?

4 A No.

5 MR. SIMON: Do you know who made the  
6 decision to have Ms. Myers at one of the meetings?

7 THE WITNESS: No.

8 MS. FISHER: Good question.

9 MR. SIMON: You don't recall it being you?

10 THE WITNESS: No. I did not put together  
11 the manifest.

12 BY MS. FISHER:

13 Q Turning to 20572, the next page, do you  
14 recall a meeting with the vice president?

15 A No, I don't. I reviewed this page. I  
16 cannot recall whether this is notes at the end of a  
17 day, what happened during the course of a day,  
18 because they seem to be vice president and then a  
19 luncheon and then "PM" meeting, I think evening. So,  
20 it is a curious --

21 Q Who is that?

22 A I don't know. That's what I have been

1 saying. The best I can help you --

2 Q You have already helped by saying PM isn't  
3 somebody.

4 A It seems to summarize a day.

5 Q Does it refresh your recollection that at  
6 one point during this week you did attend a meeting  
7 with the vice president?

8 A No, it doesn't. I have a recollection that  
9 there was an interest in having the vice president  
10 say the -- add to the voices of why there was not a  
11 need for a special counsel, that there was no  
12 credible evidence, that we have all the reasons that  
13 were previously stated.

14 I would read my notes that the vice  
15 president said I will do it and talk about how there  
16 was interest in the Clintons' cooperation in dumping  
17 these documents to the Department of Justice, that we  
18 had had this Justice Department prosecutor and Mackay  
19 and the reasons that we are interested.

20 I would read this as -- "I'm sure this will  
21 help" reads to me as frankly the vice president's  
22 self-deprecating humor.

1 MR. SIMON: What do you mean by that?

2 THE WITNESS: "I will do it," I will say  
3 that, but given the --

4 MR. KRAVITZ: "Cacophony of voices in this  
5 drumbeat, I'm sure it will help" is a  
6 self-deprecating joke that I'm sure it will help,  
7 meaning this is a tall order.

8 MR. SIMON: Sarcastic.

9 THE WITNESS: I would read it in tandem  
10 with the second meeting, there was a luncheon and  
11 perhaps in a pool spray it was going to be asked. We  
12 anticipated a question on this. My notes say "No  
13 question on Whitewater. I assume that is no press  
14 question on Whitewater. PM I would best read as in  
15 the afternoon Lindsey notes that Kendall aware of  
16 subpoena."

17 BY MS. FISHER:

18 Q Going back up to the top, "Need to dump all  
19 documents," was that the vice president's view of  
20 what should be done?

21 MS. METLIN: Can you clarify "dump  
22 documents."

1 THE WITNESS: I would read that as the  
2 Clintons have in their production to the Department  
3 of Justice acknowledged the need to dump all the  
4 documents and to be as cooperative as possible.

5 MR. SIMON: Dump where?

6 THE WITNESS: I would read this as the  
7 Department of Justice.

8 BY MS. FISHER:

9 Q Your understanding is that the vice  
10 president has said that the -- is saying that --  
11 explain that again.

12 A I would read this as that the vice  
13 president would make the argument for why -- in  
14 response to a question about a special counsel or  
15 special prosecutor would make the argument as to why  
16 there was not a need for a special prosecutor, which  
17 is what we discussed in previous meetings, I will do  
18 it, I'm sure it will help.

19 Q I understand that far.

20 A "Need to dump all documents." I don't know  
21 that he said that. But the note I guess I would read  
22 is that the Clintons have seen the need through their



1 cooperation with the Justice investigation as the  
2 importance and the need to dump or to provide all the  
3 documents to the investigators.

4 Q So, it is your best recollection this would  
5 not refer to, for example, the Vice President's view  
6 that the Clintons need to make sure that they have  
7 given all the documents to the Department of Justice?

8 A No. I don't think there was any ever  
9 question that they weren't all given to the  
10 Department of Justice. I'm not aware of any question  
11 to that effect.

12 Q On the bottom where it says "PM Lindsey  
13 notes that Kendall aware of subpoena."

14 A Yes.

15 Q This is January 5th.

16 A Right.

17 Q And the subpoena was issued in December.

18 A Correct.

19 Q So, could you explain to me what this might  
20 refer to?

21 A I guess I would read this as a question of  
22 when Mr. Kendall called the Department of Justice to

1 say that the President was going to be turning it  
2 over, he requested a subpoena from the Department of  
3 Justice. There was a question, I believe, in the  
4 press as to whether there was already a prepared  
5 subpoena for these from the Department of Justice.

6 I would read this as that Kendall is aware  
7 of subpoena, aware of a subpoena from Justice.

8 Q Prior to the time that he got it?

9 A Prior to the time he requested it.

10 Q So, it is your best recollection that  
11 Mr. Kendall was aware or at least that you were told  
12 that Mr. Kendall was aware that there was a subpoena  
13 being prepared by the Department of Justice prior to  
14 the time that Mr. Kendall contacted the Department of  
15 Justice to request a subpoena?

16 A It is my recollection that there was an  
17 issue about this. What I recall someone terming the  
18 nanosecond of who asked who first for the subpoena.  
19 I believe that refers to that issue. That's about  
20 all I can help you with that.

21 Q Were you aware of any negotiations or  
22 discussions between -- strike that.



1           Were you aware of any discussions between  
2 Mr. Kendall and the Department of Justice regarding  
3 the subpoena?

4       A    I was told in December that he was  
5 requesting a subpoena to protect the documents.

6       Q    What was your understanding of how the  
7 subpoena would protect the documents?

8       A    I guess my understanding was that they  
9 would protect them in its confidentiality, that they  
10 would not be -- that they could be preserved as  
11 confidential to the investigators.

12       Q    So, it was your understanding that if  
13 Mr. Kendall turned the documents over to the  
14 Department of Justice, they would remain confidential  
15 to the --

16       A    To the investigators.

17       Q    And do you have an understanding -- so,  
18 they would not be made public?

19       A    Correct.

20       Q    Do you have an understanding of -- was it  
21 discussed at all how this would affect any later  
22 investigations into this matter?

1       A    I don't know.

2           MR. KRAVITZ: Off the record.

3           (Discussion off the record.)

4           BY MS. FISHER:

5       Q    I think this is where we have a divergence,  
6 and I'm not sure, but I think that 573 -- okay, 573.  
7 I think that is the next page from your notes.

8       A    Yes.

9       Q    Is it your best recollection that this  
10 would have been a meeting on the 6th of January or  
11 another meeting on the 5th of January?

12       A    I can't point -- it is consistent with this  
13 period where there is stated the needs. This is  
14 consonant with my recollection of that time period of  
15 wanting to have a more aggressive plan in terms of  
16 the information that we would have, a two-pager, Q  
17 and As, talking points, narrative, comprehensive and  
18 chronology.

19       Q    Do you have an understanding of who was at  
20 this meeting?

21       A    I don't.

22       Q    Do you have an understanding of who was

1 going to prepare what?

2 A Well, my understanding is the bulk of it  
3 was in the counsel's office.

4 Q So, the counsel's office was going to  
5 prepare the chronology?

6 A I believe that's right.

7 Q And do you know who in the counsel's office  
8 was going to be preparing that chronology?

9 A I don't know. Between Mr. Klein and  
10 Mr. Eggleston, I don't know how they divided it.

11 Q Do you have an understanding of why it was  
12 decided that at this point it was going to be the  
13 counsel's office that prepared the chronology as  
14 opposed to Mr. Kendall?

15 A No, other than the previous notation that  
16 they were working on this white paper, so-called  
17 white paper.

18 MR. SIMON: "They" being Kendall?

19 THE WITNESS: They being Kendall's firm,  
20 yes.

21 MR. SIMON: Which was a further document?

22 THE WITNESS: Correct.

1 BY MS. FISHER:

2 Q Going to the next page, 20574, which is  
3 dated at the top January 6th at 5:30 p.m., another  
4 meeting, I take it, on Whitewater; is that correct?

5 A That's correct.

6 Q Do you recall who attended this meeting?

7 A I don't. This is one of that whole series  
8 of meetings that week that I can't place a very good  
9 manifest for you.

10 Q Do you recall who brought up the issue of  
11 Beverly Bassett?

12 A No, I do not.

13 Q Do you recall whether this was the first  
14 time you heard of an issue regarding Beverly Bassett  
15 or the first time that Ms. Bassett came up in  
16 discussions?

17 A I don't recall when the first I heard of it  
18 was.

19 Q Were you made aware at any time of some  
20 handwritten notes that the President had written to  
21 Mr. Lindsey or Mr. McLarty regarding Beverly Bassett  
22 Schaffer?

1       A    I am aware of that through the press  
2 accounts.  
3       Q    The recent press accounts?  
4       A    Yes.  
5       Q    Were you aware of that at the time?  
6       A    I don't believe so, no.  
7       Q    Were you aware of The New York Times  
8 editorial that came out in December of 1993 which  
9 mentioned Madison and Beverly Bassett Schaffer?  
10      A    I can't recall it. I normally read  
11 editorials, But I don't recall it.  
12      Q    Do you recall learning that the President  
13 had an interest, a specific interest, in the issues  
14 relating to Beverly Bassett Schaffer?  
15      A    No.  
16      Q    Do you recall who was speaking here about  
17 this issue?  
18      A    I don't. It is not noted, so I don't  
19 know.  
20      Q    If you could just read it.  
21      A    "Beverly Bassett letter info. BL," Bruce  
22 Lindsey," Waldman."

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1       Q    Who is Waldman?  
2       A    Michael Waldman is a member of the  
3 President's staff in the communications office.  
4       Q    Was he present in this meeting?  
5       A    I don't know if he was present in this  
6 meeting. He was, as I have said, in some of the  
7 other meetings. I don't know.  
8       Q    What is the reference to letter or info?  
9       A    I don't know whether that is the letters  
10 that were exchanged that had been reported on during  
11 the time of this issue of the correspondence with  
12 Mrs. Clinton and just general info about Beverly  
13 Bassett.  
14      Q    Do you have any knowledge of a letter that  
15 Ms. Schaffer wrote to the White House or any member  
16 of the White House around this period of time?  
17      A    No.  
18      Q    Are you aware of any discussions that  
19 anyone had with Ms. Schaffer in December or early  
20 January of 1994 prior to January 6th?  
21      A    No.  
22      Q    Okay. Keep reading.

1 A "Get a lawyer to check law on issue witness  
2 of preferred stock. Independent panel of  
3 regulators."

4 Q Do you know what that refers to?

5 A Well, I would read this as again reflective  
6 of my recollection of this period of time, that we  
7 needed to have the materials that were outlined on  
8 the previous page and have the information so that we  
9 could have a more intensive effort to get the truth  
10 out about the facts of this matter. There was an  
11 interest to make sure that on one level that we would  
12 not be misstating what Ms. Schaffer has previous --  
13 had previously said about this matter.

14 On a second level, to make sure that  
15 whatever she did was in accordance with what should  
16 have been done so that before the White House  
17 represented something in our strategy of Q and As or  
18 op eds or any of this, that we had accurate  
19 information.

20 There was press reports about White House  
21 handling of this period of time, and I think there  
22 was an interest to try to get a lawyer to check on

1 the issuance of preferred stock to make sure we had  
2 the accurate information. Because if we were in a  
3 position where the White House credibility was in  
4 question, we would be not doing our jobs correctly.

5 Q Is it your understanding that Bruce Lindsey  
6 and Mr. Waldman were going to be in charge of this  
7 effort with Ms. Schaffer?

8 A I don't know. In charge, or Bruce was  
9 going to work with Waldman to make sure we had all  
10 the information we needed before we represented any  
11 of it.

12 Q What was Mr. Waldman's role with respect to  
13 these matters?

14 A He was a participant at these meetings, as  
15 I have said. He is a lawyer by training and on the  
16 communications staff. He was asked seemingly in this  
17 to work on it.

18 Q Do you have a recollection why the issue  
19 with Ms. Schaffer as opposed to other issues relating  
20 to Whitewater and things like that was what seemingly  
21 appears to be from your notes one of the prominent  
22 issues that were discussed in these meetings



1 regarding independent counsel and other matters?

2 MR. KRAVITZ: I object to that question. I  
3 actually think it is not accurate to say that  
4 Mrs. Schaffer is a major issue in these meetings. I  
5 think this is the first meeting that we have talked  
6 about that notes have reflected that Ms. Schaffer was  
7 even discussed.

8 MS. FISHER: It goes on to discuss her next  
9 notes.

10 BY MS. FISHER:

11 Q What I'm just trying to get, and I  
12 apologize for my --

13 MR. SIMON: Would it be a fair  
14 characterization to say why she was an issue, whether  
15 than a major issue?

16 BY MS. FISHER:

17 Q That's what I'm trying to get at. If you  
18 have any knowledge or what your recollection is as to  
19 why she came up?

20 A What I remember most about the week of the  
21 discussions was the Independent Counsel. I guess I  
22 recall in some of my notes that the issue of Madison

1 Guaranty getting special treatment was what was most  
2 at issue during this time.

3 Q It was one of the major concerns at this  
4 time?

5 A I don't know if it -- I guess it was --

6 MR. SIMON: It was an issue where? I know  
7 you are tired, Mark, but I think you need to complete  
8 it. Was it an issue in the press or in the White  
9 House? Where?

10 THE WITNESS: It was an issue in the White  
11 House. As other notes mention -- I don't know if you  
12 want to get into this here, but on 575 it says "Most  
13 important thing to prove next week," which is that  
14 the -- if the issue in the press or the questions  
15 that were being raised if there was preferred  
16 treatment for Madison Guaranty, that public  
17 statements by Beverly Bassett Schaffer would be  
18 relevant.

19 BY MS. FISHER:

20 Q Let's go on. Over on the side, do you know  
21 what that refers to?

22 A I don't. "P. lawyer White House." I don't

1 know what that is.

2 MR. SIMON: Do you have any recollection of  
3 what has been redacted there that is next to that?

4 THE WITNESS: Yes. There was information  
5 on working with press assignments and getting  
6 different --

7 MR. SIMON: Could you be more specific.

8 THE WITNESS: Press assignments of who was  
9 going to be on what shows, what materials would be  
10 provided to the weekend shows about this. It was all  
11 part of the general strategy of our effort to make  
12 sure that we had credible information out to the  
13 press.

14 BY MS. FISHER:

15 Q Turning to the next page, January 7, 1994  
16 meeting. Do you have any independent recollection of  
17 who attended this meeting?

18 A I don't, beyond the notations of people who  
19 were there and a variation of some of the names I  
20 testified to prior.

21 Q Reading number 1, "Reno denial, haven't  
22 decided." Do you have any independent recollection

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1 what that refers to?

2 A Well, I would read that that she had been  
3 quoted that she has not decided yet whether to call  
4 for a special counsel.

5 Q Do you have any knowledge of any  
6 discussions going on between the White House and the  
7 Attorney General at this time regarding whether or  
8 not to appoint an independent prosecutor?

9 A No.

10 Q Okay. Going down.

11 A "3. We cannot affect the scope of the  
12 prosecutor. Politically fewer questions to lesser  
13 the exposure."

14 Q Do you recall who was saying this  
15 statement?

16 A No, I don't.

17 Q Do you have an understanding what this  
18 refers to?

19 A I think we are getting back to the previous  
20 discussions of whether we would have a special  
21 counsel or not, in that politically there would be  
22 fewer questions to lesser the exposure, meaning the

1 questions asked to the White House.

2 Q If an independent prosecutor was appointed?

3 A Correct, because then it would be within  
4 the province of the independent counsel or special  
5 counsel for this matter to be reviewed.

6 Q Was someone expressing concern -- who is  
7 the "we"? The White House?

8 A I suppose anyone. No one can affect the  
9 scope of the prosecutor.

10 Q Do you recall anyone expressing the concern  
11 regarding the scope and the fact that there was an  
12 inability to control the scope of an independent  
13 prosecutor?

14 A No.

15 MR. SIMON: Excuse me one moment.

16 (Counsel conferred with the witness.)

17 BY MS. FISHER:

18 Q Did you want to say anything further?

19 A No, other than fewer questions to lessen  
20 the exposure is the public context of this. Fewer  
21 questions would be asked once a prosecutor was  
22 named.

1 Q Number 4.

2 A "Madison Guaranty not getting special  
3 treatment. Most important thing to prove next week.  
4 GS:," George Stephanopoulos, "James taught us on the  
5 campaign to be about one thing."

6 Q What is your understanding of why this was  
7 the most important thing to prove at this time,  
8 beginning of January 1994?

9 A I guess I would read it because that's what  
10 was probably at the center of a lot of the articles  
11 and the press inquiries, that there was a question of  
12 whether Madison Guaranty received special treatment  
13 and in proving that they did not receive special  
14 treatment, that that would be the most important  
15 thing that could be accomplished in defense of the  
16 President and Mrs. Clinton.

17 Q What was the plan on how to prove this, if  
18 there was one, that you are aware of?

19 A I think it was the overall plan to be more  
20 aggressive in our presentation of facts through some  
21 of the Q and As, the synopsis, the op ed pieces, the  
22 surrogates that could be represented on this. That



1 was the plan on the externals for how we would do  
2 this. It did then -- there was also the side piece  
3 of making sure we had the requisite information from  
4 this, which I previously testified.

5 Q Could you read number 5.

6 A "PB," Paul Begala, "BL," Bruce Lindsey,  
7 "Waldman, to Arkansas to meet with Beverly Bassett,  
8 try to poke holes in their story."

9 Q Who is "their"? What is their?

10 A I guess "their" is those that are alleging  
11 that there is special treatment by Madison, that  
12 there was special treatment for Madison Guaranty.

13 Q Who is PB?

14 A Paul Begala. "Tried to get independent  
15 validation from securities attorney. Search of  
16 Arkansas regulation."

17 Q Was there someone that was going to do  
18 these two things outlined at the bottom?

19 A I don't remember any tasking. But I do  
20 recall the importance of if we were going to have  
21 this aggressive external outreach, whether it is  
22 through op eds or surrogates or whatever, that we

1 wanted to make sure that all of the facts were  
2 accurate.

3 And trying to get independent validation  
4 from a securities attorney to corroborate what had  
5 previously been said by Beverly Bassett Schaffer  
6 would be one, as well as search of Arkansas  
7 regulation, again, to make sure, I would read this  
8 as, that what we were stating that we would not  
9 misstate any fact. Having been a reporter for a  
10 little bit, I thought this was -- this seems  
11 reasonable.

12 Q Was it your understanding that the  
13 discussion included discussion of whether one of  
14 these people, Paul Begala, Bruce Lindsey or  
15 Mr. Waldman should go to Arkansas to meet with  
16 Ms. Schaffer?

17 A The question is whether they --

18 Q Whether it was discussed that somebody  
19 should go to Arkansas.

20 A I read this as this is someone's  
21 suggestion. That's how I would read that statement,  
22 yes.



1 Q Was there any discussion of whether it was  
2 appropriate for someone from the White House to go  
3 speak to Ms. Schaffer, especially given that there  
4 were discussions ongoing about whether an independent  
5 prosecutor was going to be appointed?

6 MR. SIMON: Are you asking in the context  
7 of the independent prosecutor or whether or not it  
8 was appropriate, period? I don't understand the  
9 question.

10 BY MS. FISHER:

11 Q Was there discussion about whether it was  
12 appropriate?

13 A Given the Independent Counsel?

14 Q How about whether -- did anyone say  
15 anything about whether this was an appropriate thing  
16 for the White House to be doing

17 A I guess the only thing that I can recall is  
18 Mr. Ickes saying we can't send them, which is on  
19 2520577. "We can't send PB, MW" it will come out.

20 Q Meaning that --

21 A There would be another story. It would  
22 seem like a White House overreaction.

1 Q Other than it being appropriate in the  
2 press context, was there any discussion about it  
3 being appropriate?

4 A Beyond this, no. I -- Mr. Ickes spoke to  
5 it. I don't recall it anywhere else in the meeting  
6 being a subject other than what I noted here.

7 MR. SIMON: Can we get a clarification of  
8 what the "it" is.

9 MS. FISHER: Sending someone out to  
10 Arkansas to meet with Ms. Schaffer.

11 MR. SIMON: Okay.

12 BY MS. FISHER:

13 Q Was there a discussion at this meeting  
14 about the First Lady's prior representation of  
15 Madison while the First Lady was at the Rose Law  
16 Firm?

17 A I don't recall that, no.

18 Q Did you have any contact with Ms. Schaffer?

19 A No.

20 Q If you could read. Is that a DG there?

21 A Yes. David Gergen. "Hillary Rodham  
22 Clinton leaves in two hours. Bill Clinton to

1 Europe. Get in a group of attorneys to discuss  
2 special or independent prosecutor. Get dragged  
3 kicking into court for," I guess that is "independent  
4 prosecutor."

5 Q What do you understand Mr. Gergen --

6 A I understand the Gergen point to be that we  
7 should bring in a group of attorneys, prominent,  
8 respected attorneys, as I recall, to discuss the pros  
9 and cons of whether the President should call for an  
10 independent or a special counsel.

11 Q What was the reference to getting dragged  
12 kicking into court for independent prosecutor?

13 A I guess so that we would have the benefit  
14 of their counsel, their advice before anyone was  
15 dragged in, before it was announced, before the  
16 President decided, I guess, is what that could mean.  
17 Gergen wanted to have people come in and eventually  
18 people were. Advice was solicited to discuss this  
19 issue.

20 Q So, could you explain that reference one  
21 more time. I'm sorry. I'm not understanding. Who  
22 would get dragged kicking into court for independent

1 prosecutor? Who would get dragged in kicking into  
2 court? I don't understand how that relates to  
3 bringing in people to discuss the issue, I guess.

4 A I guess I would read this -- I can't  
5 remember it more than my notes here. That we would  
6 have the benefit of this advice before any  
7 independent prosecutor was named.

8 MR. SIMON: Are you getting back to the  
9 fact that the President be up front on this decision  
10 before someone else --

11 THE WITNESS: Yes. That's how I guess I  
12 would read it today, but I can't recall that.

13 BY MS. FISHER:

14 Q Could you go on reading.

15 A "Lead to argument on statute of  
16 limitations. Can be used as our friend for argument  
17 on special counsel."

18 Q What is your understanding of what  
19 Mr. Gergen is referring to there?

20 A My reading of this would be that Mr. Leach  
21 might have been saying at the time that the statute  
22 of limitations was running out on some matter

1 associated with this and it could be used as our  
2 friend for the argument to have a special counsel to  
3 the President, so that there wouldn't be an issue  
4 that the statute of limitations had lapsed.

5 Q Okay. Go on.

6 A "All agree (but Bernie Nussbaum) that Reno  
7 is boxed once independent counsel starts."

8 Q What is the reference to box?

9 A I guess that would be read to be once the  
10 Independent Counsel starts, the matter would be out  
11 of the Attorney General's hands.

12 Q Why did Mr. Nussbaum disagree with that?

13 A I don't know. I can't recall what his view  
14 was on that.

15 Q If you could go on reading.

16 A "Harold Ickes, special counsel, three major  
17 problems: 1, Hillary Rodham Clinton adamantly  
18 opposed; 2, Reno has shut the door; 3, if we ask, it  
19 looks like we have ducked."

20 Q What did you understand Mr. Ickes to be  
21 saying by "Reno has shut the door"?

22 A I can't recall. I guess I could read that

1 as she will make up her own mind on this. She is an  
2 independent Attorney General. She has said that she  
3 hasn't decided, that she has shut the door, that she  
4 will decide and announce it on her own.

5 Q What about "If we ask it looks like we have  
6 ducked"?

7 A I would read that as if we ask for an  
8 independent counsel, it becomes a private  
9 investigation. That may appear to some that we have  
10 ducked or tried to cloak this in some secret  
11 proceeding.

12 Q That was Mr. Ickes' view?

13 A I don't know that that was his view.  
14 That's what he says the three major problems are.

15 Q What about the next reference?

16 A "Boxes going before some prosecutorial  
17 authority anyway."

18 Q What does that refer to?

19 A I assume that refers to the fact that the  
20 boxes were turned over to the Department of Justice  
21 in December.

22 Q What is the reference "before some



1 prosecutorial authority" then?

2 A The boxes are going before, meaning they  
3 are going to be presented to or given to a  
4 prosecutorial authority anyway. Therefore, a  
5 prosecutorial authority has, I read this, as the  
6 relevant information.

7 Q Meaning Mr. Mackay?

8 A Correct.

9 Q Could you go on.

10 A "BN:," Bernie Nussbaum, "don't want special  
11 counsel or independent prosecutor. Prefers  
12 Congressional hearings to prosecutor or counsel."

13 Q I think you testified to this before. This  
14 was Mr. Nussbaum's view, that Congressional hearings  
15 would be better than having a special prosecutor?

16 A That's correct. "HI:," Harold Ickes,  
17 "meeting of attorneys outside of White House."

18 Q What does that refer to?

19 A I think that refers back to Mr. Gergen's  
20 point, that we should get in a group of attorneys to  
21 discuss whether we should have a special counsel or  
22 independent counsel.

1 Q Okay.

2 A "Beverly Bassett is so [expletive]  
3 important. If we [expletive] this up, we are done.  
4 Let's not talk it to death. Let's just get it  
5 done."

6 Q What is Mr. Ickes referring to here?

7 A Well, I would read this as that Beverly  
8 Bassett --

9 MR. SIMON: Do you want him to start at  
10 what point? The whole Ickes comment or the Beverly  
11 Bassett?

12 MS. FISHER: The Beverly Bassett comment.

13 THE WITNESS: That is that her prior  
14 statements are extremely important.

15 BY MS. FISHER:

16 Q You are certain that this -- this  
17 shorthand, and I don't know shorthand is "important"?

18 A That's correct. That's my "important."  
19 The entire sentence is correct, that Beverly Bassett  
20 is so important to the -- our effort, which had been  
21 previously stated, the most important thing is that  
22 there is no special treatment of Madison Guaranty.



1 Her prior statements on this are very important.

2 Q So, what is the White House's concern  
3 about -- go on and explain to me more what he goes on  
4 to say.

5 A "If we [expletive] this up, we are done."  
6 I think that is twofold. Number one, if we misstate  
7 what she has previously said, we will have a  
8 credibility problem within the White House. Number  
9 two, that we need to make sure that what she did as a  
10 matter of Arkansas state regulatory law and  
11 securities law is accurate.

12 Previous notations have mentioned the need  
13 to have an independent panel of regulators, a search  
14 of Arkansas regulation. I think this is consistent  
15 with our effort that if we were beginning to embark  
16 on an intensive effort to get the truth out to  
17 represent the circumstances of this, that we needed  
18 to make sure internally in the White House that we  
19 had our facts straight.

20 Q Go on to the next page. That is probably  
21 the best.

22 A The last sentence, "Let's not talk it to

1 death. Let's just get it done." One could read that  
2 as the meetings -- the first point of the meetings  
3 outside of the White House, let's get that done,  
4 which later the notes say was done. Or let's again  
5 make sure that we have the facts concerning what  
6 Beverly Bassett has said in the matter of law and  
7 securities law is accurate. Let's get it done.  
8 That's how I read it.

9 Q Why don't you read the next entry.

10 A "Harold Ickes: We can't send Paul Begala,  
11 Bruce Lindsey, Mike Waldman. It will come up."

12 Q That is in the context of sending one of  
13 them out to see Ms. Schaffer?

14 A Yes.

15 Q PB is Paul Begala. Do you know who Paul  
16 Berry is?

17 A Isn't he a reporter on TV?

18 Q That's another name that has come up.

19 A I think he is the anchor on Channel 7. I  
20 was referring to Paul Begala. I don't know who Paul  
21 Berry is.

22 Q This is said in the context of sending

1 someone out to talk to Ms. Schaffer; is that correct?

2 A That's how I would read it, yes.

3 Q Mr. Ickes is concerned that it will come  
4 out in the press if that is done; is that correct?

5 A That's how I would read it, it would be  
6 another story and it would show the White House as  
7 somehow overreacting.

8 Q Was there discussion at this point that  
9 Mr. Lindsey had seen Ms. Schaffer in December of  
10 1993?

11 A No, I don't recall that.

12 Q Was there any discussion at this point  
13 about anyone having talked to Ms. Schaffer prior to  
14 this time?

15 A No.

16 Q Go on.

17 A "Item by item make sure her story is okay."

18 Q Was there a concern about what her "story"  
19 was, expressed by Mr. Ickes?

20 A No. There was a concern that if we were  
21 going to --

22 Q Other than what you testified to before.

---

1 Never mind. Go on. I didn't mean to interrupt. I'm  
2 sorry.

3 A I would read this as we did not want to  
4 misstate what she has previously said about this  
5 issue, number one, and number two, to make sure if  
6 the White House is going to be representing it in  
7 this strategy, that it is factually as a matter of  
8 Arkansas law that could be perhaps done with an  
9 independent panel or the other instances that I  
10 referred to to make sure that is okay, to make sure  
11 it is accurate, that we make sure we have our facts  
12 straight, to make sure we have our ducks in a row in  
13 terms of the facts that the White House would be  
14 presenting.

15 Q Could this refer to the fact that Mr. Ickes  
16 is referring to sending someone out to talk to  
17 Ms. Schaffer and go over her story item by item?

18 A I don't recall that. That's not how I read  
19 it.

20 Q Go on reading.

21 A "Tisdale? In Lindsey's firm. Skip White  
22 House pass. PB friend. New York lawyer? Quinn

1 arm's length."

2 Q What is your independent recollection of  
3 what these notes refer to at this time?

4 A One could read it that these would be  
5 people we would consult, other outside attorneys,  
6 about whether we would have an independent counsel or  
7 not. Or these would be people that could assist in  
8 making certain as a matter of Arkansas law --  
9 Lindsey's firm is a Little Rock firm -- that the  
10 actual factual basis of what has been said previously  
11 by Ms. Bassett Schaffer or what was actually done is  
12 corroborated as a matter of securities law.

13 That could be some of the people we would  
14 suggest, or someone to speak with her. I don't  
15 know. I cannot -- it could be any of those.

16 Q Putting it in context of the earlier --

17 MR. KRAVITZ: I want to interrupt for one  
18 second. I want to make sure the record is clear.  
19 The last question was do you have any independent  
20 recollection of what these lines meant, and your  
21 answer, as have some of your other recent answers,  
22 began with "Well, it could be read to mean that" and

1 you went on. I don't know. My sense is that what  
2 you are saying is that you don't remember exactly  
3 what this means and you are just kind of  
4 speculating.

5 THE WITNESS: Yes. It is getting late, I  
6 guess. To answer the direct question you had, no, I  
7 don't have any independent recollection.

8 BY MS. FISHER:

9 Q Given the top line says "We can't send PB,  
10 BL, MW," and then it lists "Tisdale Skip PB friend,"  
11 does that help refresh your recollection at all that  
12 it might have been a list of who would possibly be  
13 sent out to speak with Ms. Schaffer about her  
14 "story"?

15 A No.

16 Q Who is Skip?

17 A Skip is probably Skip Rutherford.

18 Q What was his position at the White House?

19 A He did not have a position at the White  
20 House.

21 Q What does "WH pass" mean?

22 A White House pass. Some members of either

1 consultants to the DNC or other advisors to the  
2 President at this point in time, I believe, had a  
3 White House pass.

4 Q Do you have an understanding of why that  
5 would be referenced here?

6 A I don't.

7 Q Who was Skip Rutherford?

8 A He was an executive. He worked in  
9 Arkansas, in Little Rock at the energy company that  
10 Mr. McLarty ran.

11 Q Did Mr. Rutherford become involved in any  
12 of these discussions or Whitewater-Madison issues at  
13 this time?

14 A Not that I'm aware of.

15 Q Did you ever have any conversations with  
16 Mr. Rutherford regarding Madison or Whitewater  
17 issues?

18 A No, I don't believe so.

19 Q Do you recall learning that anyone outside  
20 the White House had conversations with Mr. Rutherford  
21 regarding Madison or Whitewater issues?

22 A No.

1 Q Do you recall -- do you have any knowledge  
2 that Mr. Rutherford spoke to anyone in Arkansas to  
3 try to gather facts relating to Madison or Whitewater  
4 issues?

5 A No.

6 Q The "Quinn" refers to Jack Quinn?

7 A I would presume that's who it is, yes.

8 Q Do you have an understanding what the  
9 reference to arm's length means?

10 A I have no independent recollection of  
11 this. I don't know whether that is Harold's report  
12 of Jack Quinn's view, or if Jack was at the meeting.  
13 I don't recall him being at the meeting. Arm's  
14 length, I would view that as arm's length from the  
15 White House.

16 (Recess.)

17 BY MS. FISHER:

18 Q Going back to -- where were we? I think we  
19 exhausted -- 20578, January 7th meeting in  
20 Mr. McLarty's office.

21 A "Harold Ickes: To try to reopen it with  
22 us. Impossible, President can't, staff can't,



1 Christopher to speak to the First Lady or Bob  
2 Barnett."

3 Q What does that refer to?

4 A I assume this is the ongoing issue of  
5 whether we would have an independent counsel or not.

6 Q Try to reopen what?

7 A The debate.

8 Q To try to --

9 A The debate on whether we would have an  
10 independent counsel.

11 Q And what is your understanding what he  
12 meant by "impossible?"

13 A That it is impossible.

14 Q Go on and tell me what you understand the  
15 next reference to be.

16 A "President can't, staff can't,  
17 Christopher," I would assume that is Warren  
18 Christopher and "speak to the First Lady or Bob  
19 Barnett."

20 Q Do you have an understanding why those two  
21 individuals would be named?

22 A Secretary Christopher was someone that

1 President and Mrs. Clinton had enormous respect in as  
2 a lawyer and a knowledgeable Washington hand.

3 Q Could this possibly refer -- does this  
4 refer to an attempt to reopen it with the First Lady  
5 and that's why there are people listed here that  
6 could possibly talk to her?

7 A I think that is what that entry could  
8 mean.

9 Q So, the President couldn't raise it with  
10 her, but maybe Mr. Christopher or Mr. Barnett could?  
11 Is that a fair reading of it?

12 A I don't know what Harold meant  
13 specifically, whether it is can't reopen it or not.

14 Q But it is reopen it with the First Lady?

15 A That Christopher would talk to the First  
16 Lady, correct.

17 Q Do you have an independent understanding of  
18 what the First Lady's position was as of January 7th,  
19 1994? Was that still --

20 A My understanding was that her opinion had  
21 not changed. "Client spoke with lawyers."

22 Q Okay.

1 A "BN," Bernie Nussbaum ": Indictments will  
2 be Betsey Wright."

3 Q What does that refer to?

4 A I think this is Bernie's, as I testified  
5 before, his rather forceful viewpoint whether we  
6 would have an independent counsel or not. It was  
7 rather extraordinary statements that indictments  
8 could even go as far as someone as unrelated as  
9 Betsey Wright. Bernie had a very strongly held view  
10 on the Independent Counsel and argued it, as I have  
11 said, quite forcefully.

12 Q Do you have an independent recollection of  
13 Mr. Nussbaum talking about indictments in relation to  
14 Betsey Wright?

15 A No, no.

16 Q So, this is what you are reading into your  
17 notes at this point?

18 A Yes. I mean, as I have done with all of  
19 your questions. I can tell you that there was not a  
20 discussion, a serious discussion that he was  
21 suggesting that there was facts to indict Betsey  
22 Wright by any stretch.

1 MR. SIMON: Was this part of his hyperbole  
2 about why Independent Counsel, how far they can go?

3 THE WITNESS: This is Bernie Nussbaum's  
4 argumentation. This was not a serious suggestion of  
5 a legal matter. It was a hyperbolic addition to the  
6 debate on whether we would have an independent  
7 counsel.

8 BY MS. FISHER:

9 Q Did you have an understanding as of January  
10 1994 of who Ms. Wright was?

11 A Yes.

12 Q What was your understanding of that?

13 A That she was on the governor's staff for  
14 many years, served as chief of staff and served on  
15 the campaign, but was in private business during the  
16 administration.

17 Q Did she play some sort of consulting  
18 role --

19 A No, I don't believe so.

20 Q -- during the administration?

21 A No, not that I'm aware of.

22 Q Were you aware that Ms. Wright was in

1 Little Rock during January 6th and 7th of 1994  
2 searching for documents relating to Whitewater?

3 A No.

4 Q I guess the 8th of January, next meeting.

5 A "Ward room, Bernie, argument against  
6 special prosecutor. Harold Ickes, when Kendall  
7 called on speakerphone were two FBI agents and Jim  
8 Nixon, those guys are expletive us blue."

9 Q What do you understand this reference to  
10 refer to? Not the last one. In general, what was  
11 Mr. Ickes trying to convey or what is your  
12 understanding what Mr. Ickes was trying to convey?

13 A I would read this as a follow-on to  
14 Mr. Nussbaum's argument for a special prosecutor.  
15 Harold's observation that given that when Mr. Kendall  
16 called on the speakerphone there were two FBI agents  
17 in Jim Nixon's, it is an observation evidencing that  
18 Department of Justice was proceeding in a rather  
19 independent fashion as well, that there was obviously  
20 no laxity in its treatment of the investigation on  
21 Mr. Mackay and his investigative team.

22 Q What was your understanding of why he

1 called Mr. Carver a bad guy?

2 A I don't know.

3 Q Was Mr. Ickes expressing concern at the  
4 Department of Justice's handling of the matter?

5 A No, I don't recall that.

6 MR. SIMON: Could I clarify? Was Mr. Ickes  
7 essentially saying that although Mr. Nussbaum doesn't  
8 like the special prosecutor, the Justice Department  
9 is just as independent and just as tough so you are  
10 not going to -- there is no great advantage in the  
11 status quo?

12 THE WITNESS: This shows there is no laxity  
13 on the Justice part. That's what I testified.  
14 That's what I thought I said.

15 BY MS. FISHER:

16 Q Is that your recollection of what he was  
17 saying, what your counsel just --

18 A Before my counsel spoke, I thought I  
19 testified that this is -- I could read this as a  
20 follow-on to Mr. Nussbaum's comment, that the process  
21 at Justice obviously did not evidence any laxity on  
22 the part of the investigators at Justice regarding

1 this matter.

2 Q Did you have an understanding -- strike  
3 that.

4 Did you have any knowledge that Mr. Carver  
5 had initiated an investigation into matters involving  
6 the White House counsel's office, namely  
7 Mr. Eggleston obtaining confidential documents from  
8 the SBA in November of 1993?

9 A No.

10 Q Was that discussed at all in any of these  
11 meetings?

12 A No.

13 Q In the context of Mr. Carver?

14 A No.

15 Q Going on to 20580.

16 A "Conversation with President of the United  
17 States for release of statement, story nationwide,  
18 not just insiders."

19 Q When was this discussion?

20 A I believe this was a discussion I had with  
21 the President in advance of issuing the statement of  
22 December 23rd, 1993, where he turned over his

1 documents to the Department of Justice.

2 MS. FISHER: I'm sorry. Please read that  
3 back.

4 (The reporter read the record as requested.)

5 BY MS. FISHER:

6 Q Was anybody else present at this  
7 conversation that you had with the President?

8 A I recall this as a telephone conversation.

9 Q Was this your only conversation with the  
10 President regarding Whitewater and Madison issues?

11 A I can't recall any other conversation  
12 specific, specific of this press release.

13 Q If you want to just read it, that would be  
14 helpful.

15 A "Make clear on own accord on off chance it  
16 may be helpful. Not because anywhere by anyone any  
17 authority said wrongdoing. Lost money. Never  
18 received any inquiries. Why now? No indication of  
19 anyone in government. If you want it, we will let  
20 you see it. Very important re: No one has ever  
21 suggested we did anything wrong, may be helpful.  
22 Restate basic facts dealing with intellectually



1 dishonest people, do not know, care of truth.

2 Congressional investigation if anything in it."

3 Q Do you recall anything independent of these  
4 notes about your conversation with the President?

5 A Only that I was in my office and I called  
6 him at the residence, that it was in the period when  
7 we were issuing the statement about it and that I  
8 wanted to get his guidance and approval of the  
9 statement that was issued in my name.

10 Q What is the reference dealing with  
11 intellectually dishonest people?

12 MR. KRAVITZ: Do you really want to know  
13 the answer to that? I'm sorry.

14 MS. FISHER: I don't know if he means he  
15 was dealing with them in the '80s or at the White  
16 House.

17 THE WITNESS: I think this is a comment of  
18 those who were political opponents or a conservative  
19 press.

20 BY MS. FISHER:

21 Q What is the reference "if anything in it"?

22 A I think it is if anything in it that could

1 be helpful, similar to page 20580. "If you want it,  
2 we will let you see it."

3 Q On 20583, the reference "HRC," please read  
4 that.

5 A Yes. I should note for the record, I don't  
6 believe this is part of the conversation with the  
7 President.

8 Q Okay.

9 A It is just other notes. "HRC." I don't  
10 know what that is. "Will" perhaps. "Comment on  
11 release."

12 Q That was the statement you were preparing,  
13 the press release?

14 A Yes.

15 Q 20585, do you know what these notes are?  
16 Do you know the context in which you took them? Do  
17 they relate to the meeting with the President?

18 A I think it would just be notes associated  
19 with the release. Certainly the 1, 2 and 3 I would  
20 read as notes to myself about what the anticipated  
21 press questions would be that I would receive, "why  
22 now, New York Times, what's in it."

1 Q What's in what?

2 A What's in the documents.

3 Q The Whitewater documents?

4 A Correct.

5 Q "Why now" meaning why is the subpoena being  
6 issued now?

7 A Why has the President elected to turn over  
8 these documents now.

9 Q What is "together, not lawyers"?

10 A Together, I don't know whether that --  
11 whether that is they would be issued by the President  
12 and not lawyers. I don't know.

13 Q Did you know or were you aware that  
14 Ms. Schaffer attended a movie at the White House in  
15 January 1994?

16 A I'm aware of it through press reports.

17 Q Were you present at the movie?

18 A No, I don't believe so.

19 Q Did you ever learn or gain any knowledge as  
20 to any matters that were discussed with her when she  
21 came to the White House?

22 MR. SIMON: Other than in press reports?

---

1 THE WITNESS: No.

2 BY MS. FISHER:

3 Q So you had no discussions about that?

4 A No.

5 Q Did you attend the President's mother's  
6 funeral in January of 1994?

7 A No.

8 Q On your notes, I just want to get you to  
9 identify them, 447 in the big packet.

10 A I'm sorry? The number again? 204 --

11 Q 20447.

12 A Got it.

13 Q Do you recall the context in which you took  
14 these notes?

15 A I believe these are notes that could be  
16 read in tandem with 20451. 20451 are notes from a  
17 conversation with Michael Isikoff, who was a reporter  
18 who asked me these questions.

19 Q Do you recall when this occurred? Was it  
20 in October of 1993, September of 1993?

21 A I don't recall. It is not dated and I  
22 don't recall. 20447 seems to be the answers to the

1 questions posed by Mr. Isikoff in 20451 and 20451A.

2 Q On 447 at the top it stays "dec," "decision  
3 of U.S. Attorney's Office in Little Rock, no reason  
4 to"?

5 A "Comment."

6 Q Did you have knowledge at that time who the  
7 U.S. Attorney's Office in Little Rock was?

8 A No.

9 MR. SIMON: Who the U.S. Attorney was?

10 MS. FISHER: Yes.

11 BY MS. FISHER:

12 Q Do you know what the decision here that is  
13 being referred to?

14 A No, I don't know what this is referring  
15 to.

16 Q Do you know whether it would have related  
17 to the U.S. Attorney in Little Rock's decision to  
18 decline the referral relating to Madison?

19 A I don't know what it refers to.

20 Q Going back to the meetings in February of  
21 1994 and late 1993, did you have any contact with  
22 Mr. Hubbell during any of these meetings?

1 MR. KRAVITZ: What meetings in February  
2 1994?

3 MS. FISHER: I mean January 1994. I  
4 apologize.

5 THE WITNESS: Regarding these issues?

6 BY MS. FISHER:

7 Q Regarding Madison, Whitewater, independent  
8 prosecutor?

9 A I don't believe so, no.

10 Q Did Mr. Hubbell's name ever come up in any  
11 of the discussions?

12 A Not that I can recall.

13 Q Do you have any knowledge whether  
14 Mr. Hubbell knew of criminal referrals relating to  
15 Madison --

16 A No.

17 Q -- in the fall of 1993?

18 A No, I don't know.

19 Q Do you know whether there was an effort  
20 within the White House on the part of any individuals  
21 to attempt to collect or obtain information related  
22 to David Hale?

1 A No, I don't know that.

2 Q I want to direct your attention to this  
3 memo that is 20448 dated 12/2/93.

4 A Yes.

5 Q Do you recall receiving this memo?

6 A No.

7 Q And I don't know -- it goes on and it  
8 includes up to 450, I believe?

9 A Correct, yes.

10 Q Do you know whether the White House  
11 routinely received memos from SBA public affairs  
12 office?

13 A I can't say any instance specifically of  
14 the SBA. I do know the press office has a daily  
15 cabinet conference call with the public affairs  
16 agencies with the press office assistants where they  
17 report in on what events of the day or any press  
18 stories to report in on.

19 Q Do you recall any discussions in the White  
20 House in December of 1993 relating to Mr. Teckler at  
21 the SBA?

22 A No.

1 Q On the cc on page 450, the first one is  
2 "Erskine." Do you know who that refers to?

3 A That is Erskine Bowles, the SBA  
4 administrator.

5 Q He was SBA administrator as of December of  
6 1993; correct?

7 A Correct.

8 Q Mr. Bowles has testified that he had  
9 recused himself from Capital Management issue as of  
10 November of 1993. Do you have any knowledge as to  
11 why Mr. Bowles was receiving a memo relating to  
12 Capital Management as late as December of 1993?

13 A No.

14 Q Do you have any -- did you have any  
15 discussions relating to Capital Management or David  
16 Hale with Mr. Bowles?

17 A No.

18 Q Did you have any knowledge of anyone in the  
19 White House having any discussions with Mr. Bowles  
20 relating to David Hale or Capital Management?

21 A No.

22 Q Going to 457, if you could read that for



1 me.

2 MR. SIMON: For the record, Counsel, I  
3 believe 457 is a personal note that has no bearing  
4 whatever on this matter, and it should not have been  
5 produced by White House counsel. We were not  
6 consulted before it was. Obviously it has nothing to  
7 do with the subject of this. It has to do with a  
8 wedding and a note from a friend.

9 MS. FISHER: "Wedding," instead of  
10 "meeting."

11 THE WITNESS: "You missed a great  
12 wedding."

13 MR. SIMON: The reason it may have been  
14 produced, there are notes that may be on the other  
15 side of it.

16 BY MS. FISHER:

17 Q Do you recall whose wedding it was?

18 A No.

19 Q Turning to 458, 459, 460, 461, I don't know  
20 if there is a particular order these go in or if they  
21 are all related to the same thing, if you know?

22 A The only order I could suggest is the 1, 2,

1 3.

2 Q The circumstances -- do you recall the  
3 circumstances around which you took these notes?

4 A I do not.

5 MR. SIMON: Do you know what you think they  
6 are?

7 THE WITNESS: They are typical of notes  
8 that I would take of reporters' questions. The  
9 typical form in which I would write down the  
10 questions, the numbered questions as you have seen  
11 elsewhere in my production. This is a typical format  
12 of a reporter calling and these are the questions.

13 "Statement direction, somewhat other  
14 directions, Bill Clinton and McDougal. Deal on  
15 campaign, did Bill ask McDougal to help retire some  
16 debts. '84? Betsey said Bill Clinton, she attended  
17 fundraiser at Madison in 4/85, she picked up money  
18 didn't know where it came from, Betsey and McDougal  
19 said yes."

20 BY MS. FISHER:

21 Q Do you recall who gave you the  
22 information? Did you speak to Ms. Wright about the

1 campaign debt?

2 A I don't know that that is an answer  
3 necessarily to the question or if that is more  
4 information from the reporter.

5 Q Do you have an independent recollection of  
6 discussing the 1984 campaign debt and the 1985  
7 fundraiser at Madison with anyone?

8 A No, but my procedure would have been to  
9 talk to Mr. Lindsey only about this.

10 Q Did you speak to Ms. Wright about it?

11 A No.

12 Q Did you ever gain any knowledge relating to  
13 the fundraiser, whether it be answers that  
14 Mr. Lindsey provided you or other information that  
15 you received relating to this question?

16 A I can't recall. It would have been from  
17 Mr. Lindsey. I can't recall the information I  
18 received at this point. To answer this question, you  
19 mean?

20 MR. SIMON: Do you recall whether you  
21 answered the question or whether Mr. Lindsey answered  
22 the question?

1 THE WITNESS: No.

2 BY MS. FISHER:

3 Q Do you recall any discussions revolving or  
4 relating to Ms. Wright picking up money at Madison,  
5 didn't know where it came from?

6 A No.

7 Q Do you have any understanding what that  
8 might refer to? Or what it might mean?

9 A I'm aware that there was a fundraiser that  
10 has been part of the story. But I don't know if  
11 that's what that means. I don't recall.

12 Q Did you have any conversations with  
13 Mr. McDougal?

14 A No.

15 Q Going on to 459.

16 A "Number 2, Marlon Jackson, Arkansas banking  
17 commissioner, told Bill Clinton about imprudent  
18 banking practices in 1985, issued a cease and desist  
19 order against bank. Bill Clinton any memory.  
20 Associated with McDougal loan shifted."

21 Q Do you recall anything further than what is  
22 described in your notes about this question?

1 A No, I do not.

2 Q Do you recall getting an answer to this  
3 question?

4 A No, I do not.

5 Q Do you recall any discussions with  
6 Mr. Lindsey about Marlon Jackson?

7 A No, I do not.

8 Q Going on to 461.

9 A "McDougal says in '85 Bill Clinton helped  
10 get South Main Street building and revenue office  
11 located in building owned by Madison, number of  
12 favors, fundraiser, Whitewater."

13 Q Do you have an understanding what this  
14 relates to?

15 A Again, it is the third point or a third  
16 question from a reporter who is giving me this  
17 information. It would be my practice. I don't know  
18 much beyond this.

19 Q Do you recall getting any information from  
20 Mr. Lindsey or any other individual regarding this  
21 allegation that McDougal said in 1985 Bill Clinton  
22 helped him get South Main Street building located to

---

1 the revenue office building located to a building  
2 owned by Madison?

3 A No.

4 Q Do you have any recollection of any  
5 discussions you may have had relating to President  
6 Clinton helping out Mr. McDougal with regard to  
7 leases in the 1980s?

8 A No.

9 Q Did you have any discussions in late '93 or  
10 early '94 relating to the First Lady's representation  
11 of Madison?

12 A With?

13 Q With anyone at the White House.

14 A I'm sorry. I'm not sure I understand the  
15 question.

16 Q Do you recall any discussions in the White  
17 House in late 1993 or early 1994 regarding the First  
18 Lady's representation of Madison Guaranty in the  
19 1980s while she was at the Rose Law Firm?

20 A I guess beyond what I have testified here  
21 about the period in early January, where the issue of  
22 special treatment to Madison Guaranty and that

1 issue. Beyond that, no.

2 Q When did you first learn that the First  
3 Lady represented Madison with regard to issues other  
4 than the issues before the Arkansas Securities  
5 Commission?

6 A I don't know.

7 Q Recent?

8 A I do not know. I don't know. I don't know  
9 when I learned that.

10 MR. SIMON: Other than --

11 BY MS. FISHER:

12 Q Do you believe you learned it in early 1994  
13 or at a later period of time?

14 A I cannot place the timing. I bet it would  
15 be later.

16 Q Did you do any research into issues  
17 involving the Rose Law Firm?

18 A No.

19 Q Did you attend any meetings where issues  
20 relating to the Rose Law Firm were discussed?

21 MR. SIMON: Counsel, that's awfully vague.  
22 To the extent he just talked about Mrs. Clinton's

1 work while at the Rose Law Firm, that would have been  
2 included in the question about -- I think it would  
3 have been included in his answer about whether they  
4 talked about whether there was any special  
5 treatment.

6 BY MS. FISHER:

7 Q Is that correct?

8 A Run that by me again.

9 Q Do you recall any issues involving any  
10 other meetings or any other discussions involving the  
11 Rose Law Firm?

12 A Aside from what I have already testified  
13 to?

14 Q Yes.

15 A No.

16 Q Did you at any time gain any knowledge  
17 relating to files relating to -- strike that.

18 Did you have any discussion with regard to  
19 files relating to Mrs. Clinton's work for Madison  
20 Guaranty while she was at the Rose Law Firm?

21 A Files?

22 Q Files.



1 A No.

2 Q Did you ever have any knowledge that there  
3 were files relating to Madison Guaranty in  
4 Mr. Foster's office when he died?

5 A Well, I was aware in December when we  
6 released the statement that the Whitewater files  
7 would be going to the Department of Justice, as my  
8 statement says.

9 Q Other than Whitewater files relating to the  
10 land deal Whitewater -- I want to focus specifically  
11 on files relating to Madison Guaranty, the bank.

12 A I don't know that I distinguished it.

13 Q Did you ever see any billing records  
14 related to Mrs. Clinton's work for Madison Guaranty?

15 A No, I did not.

16 Q I believe either in your hearing testimony  
17 or your summary testimony from 1995 relating to July  
18 20, 1993, you testified that you saw Mr. Burton that  
19 evening and you had various discussions with him.

20 A Uh-huh.

21 Q At the time, did Mr. Burton mention to you  
22 that he had had a conversation with the First Lady

1 that night?

2 MR. SIMON: I would only say that this is  
3 about 180 degrees away from anything you indicated  
4 would be taken up today.

5 MS. FISHER: This is just one question.

6 MR. SIMON: But you understand this  
7 witness, until this minute at 10:00 at night after  
8 4-1/2 hours of deposition, has never thought about  
9 it. I will let him answer the question because he  
10 doesn't want to come back.

11 THE WITNESS: Let's hear it one more time.

12 MS. FISHER: If you want to think about it,  
13 that's fine. It is a clean-up question.

14 MR. SIMON: Did Mr. Burton -- on the night  
15 of the 20th of July, did Mr. Burton indicate to you  
16 he had talked to the First Lady? Is that the  
17 question, Counsel?

18 MS. FISHER: Yes.

19 THE WITNESS: I don't recall that, I don't  
20 believe.

21 MS. FISHER: I think that I am done. Let  
22 me flip through these to make sure there wasn't

1 anything else.

2 BY MS. FISHER:

3 Q 486.

4 A "Beverly Bassett letter to HRC preferred  
5 stock document now. HRC as person to contact about  
6 Madison (brokerage subsidy). Counters only  
7 connection with Madison. Three weeks ago Bruce  
8 Lindsey said only thing involved was preferred  
9 stock. Hosenball."

10 Q Who is Hosenball?

11 A Mark Hosenball is a reporter from  
12 Newsweek. "Campaigning. McDougal and Nelson."

13 Q Who is Nelson? Sheffield Nelson?

14 A I think so. "To go after Clinton and  
15 Tucker. Evidence quotes Nelson. McDougal felt  
16 abused friendship. McDougal and Nelson transcript  
17 describing deals with Clinton. McDougal to Nelson.  
18 Just accepted. I could sink it." I don't know what  
19 that is.

20 Q "I could sink it"?

21 A I don't know what this next is. "I could  
22 sink it" and then this "QUI." I don't know what that

1 is. "McDougal disappointing" or -- I'm not sure what  
2 that notation means. "38-page transcript.  
3 Lindsey."

4 Q Do you recall the context in which you took  
5 these notes? Are they separate or part of the same  
6 discussion?

7 A They seem to be the same discussion of,  
8 again, a conversation with a reporter. This  
9 indicates it is Hosenball, Mark Hosenball, a  
10 reporter, and asking these various questions. At the  
11 end I note Lindsey, whether I am going to ask Lindsey  
12 or tell him that Lindsey is going to call him back.  
13 I don't know.

14 Q Do you remember any further discussion  
15 about this issue relating to McDougal and Sheffield  
16 Nelson?

17 A No, I don't.

18 Q Turning back to 486, do you recall this  
19 discussion, specifically at the bottom, "Bruce  
20 Lindsey said only thing was preferred stock relating  
21 to the connection with Madison"?

22 A I would read this as what Mark Hosenball is

1 telling me Bruce Lindsey said. But, no, I don't  
2 recall this.

3 Q Do you recall around what date these were  
4 taken?

5 A I do not.

6 Q Do you have a recollection that as of this  
7 time you were not aware of Ms. Clinton's other work  
8 with regard to Madison, meaning work other than the  
9 work she did on the broker-dealer and the preferred  
10 stock issue?

11 A I don't recall when this was. I can't --

12 Q Again, you don't recall when you learned of  
13 that work?

14 A Correct.

15 Q Did you attend a November 5th meeting at  
16 Mr. Kendall's office? 1993, November 5th, 1993.

17 A No.

18 Q Did you have any discussions regarding that  
19 meeting?

20 A I don't know what that meeting is.

21 Q Did you have any meetings with Mr. Kendall?

22 A I know Mr. Kendall. I don't believe I have

1 ever been to his office.

2 Q Did he, at any time, come to your office to  
3 speak to you?

4 A I don't recall him coming to my office.

5 MS. FISHER: Okay.

6 MR. KRAVITZ: I have one set of questions.

7 EXAMINATION

8 BY MR. KRAVITZ:

9 Q Mr. Gearan, you have answered questions  
10 regarding discussions that occurred at meetings in  
11 the first week of January 1994 touching on Beverly  
12 Bassett Schaffer.

13 A Yes.

14 Q During any of those meetings in early  
15 January 1994 at the White House, did anyone suggest  
16 that any White House official or anyone working at  
17 the behest of a White House official should try to  
18 get Ms. Schaffer to say anything other than the truth  
19 about what had occurred relating to Madison Guaranty  
20 Savings & Loan back in the 1980s?

21 A No.

22 Q To your knowledge, at any time was there

1 any discussion in the White House or anywhere  
2 involving White House officials about trying to get  
3 Ms. Schaffer to make any statement or testify in a  
4 way inconsistent with the truth about what had  
5 happened with Madison Guaranty Savings & Loan in the  
6 mid-1980s?

7 A No.

8 Q Are you aware of any discussion involving  
9 any White House official about doing anything to try  
10 to influence the substance of Beverly Bassett  
11 Schaffer's testimony before any special prosecutor?

12 A No.

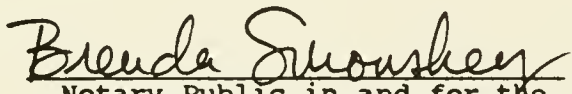
13 MR. KRAVITZ: Thank you.  
14 (Whereupon, at 10:10 p.m., the deposition  
15 was concluded.)  
16  
17

-----  
18 MARK D. GEARAN  
19  
20  
21  
22



CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996



**DEPOSITION OF MARLIN JACKSON  
IN RE: S. RES. 120**

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**MONDAY, FEBRUARY 12, 1996**

**U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.***

**Videotaped oral deposition of MARLIN JACKSON, taken  
before CHERYL BARTNETT, Certified Court Reporter, LS Certifi-  
cate No. 396, a Notary Public in and for Pulaski County, Arkansas,  
at 2:16 p.m., at Bushman Court Reporting, 620 West Third, Suite  
101, Little Rock, Arkansas.**

**APPEARANCES**

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**ALSO PRESENT: Bill Gregg, Videographer**



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**WITNESS****EXAMINATION****Marlin Jackson**

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1 MARLIN JACKSON,  
2 the witness hereinbefore named, having been previously  
3 cautioned and sworn, or affirmed, to tell the truth, the whole  
4 truth, and nothing but the truth, testified as follows:

5 PRELIMINARY PROCEEDINGS

6 THE VIDEOGRAPHER: We're going on the record.  
7 Today is February 12, 1996. Time is 2:16 p.m. This  
8 is a videotaped deposition of Mr. Marlin Jackson on  
9 the hearings conducted by the Senate Special  
10 Committee on Whitewater.

11 MR. GIUFFRA: Good afternoon, Mr. Jackson. My  
12 name is Robert Giuffra. I'm the Chief Counsel of  
13 the Senate Banking Committee, and across the table  
14 from me is Lance Cole who is the Democratic Deputy  
15 Special Counsel.

16 We'll be conducting a deposition today pursuant  
17 to Senate Resolution 120. This resolution  
18 establishes a special committee administered by the  
19 banking committee to conduct an investigation  
20 involving Whitewater Development Corporation,  
21 Madison Guaranty Savings & Loan Association and  
22 related matters.

1 We are videotaping this deposition today as  
2 well as having the court reporter take it down, and  
3 our plan at this point will be to show all or part  
4 of the videotaped deposition at our public hearings.  
5 We understand that you've had a, been in an  
6 automobile accident in the recent past and that your  
7 health prevents you from traveling to Washington,  
8 D.C. Is that correct?

9 THE WITNESS: It would make it very difficult  
10 for me to travel and I would need to go a day or two  
11 in advance to rest before the appearance and then  
12 stay over a day or two after the appearance. I  
13 couldn't keep the kind of schedule that you probably  
14 are keeping.

15 MR. GIUFFRA: Yeah. Well, we'll try --

16 THE WITNESS: Come in early in the morning and  
17 take the red eye home.

18 MR. GIUFFRA: So our plan will be just to show  
19 this videotaped deposition. The procedure we follow  
20 is I will ask some questions, then Mr. Cole will ask  
21 questions. We'll be somewhat informal today. The  
22 deposition will be treated as Committee confidential

1 until it is shown at the Committee hearing. It will  
2 not be made available to the public.

3 You have a right to be represented by counsel  
4 and I see you are and if counsel will state an  
5 appearance for the record.

6 MR. PRYOR: My name is Mark Pryor. I'm with  
7 the law firm of Wright, Lindsey & Jennings in  
8 Little Rock.

9 MR. GIUFFRA: Briefly just to provide a  
10 synopsis of the procedure we follow, objections to  
11 the form of questions can be noted for the record.  
12 Counsel may object on grounds of privilege or scope.  
13 And in that event we either may proceed or ask  
14 Chairman D'Amato to rule on the objection.

15 If at any time today you don't understand a  
16 question, let Mr. Cole or myself know and we'll  
17 rephrase the question. If at any time you need a  
18 break, we'll take a break and -- do you have any  
19 other que -- do you have any questions before we  
20 start?

21 THE WITNESS: I don't believe so.

22 MR. GIUFFRA: Okay. If the court reporter

1 would, please, swear the witness.

2 (Whereupon, the witness was sworn.)

3 EXAMINATION

4 BY MR. GIUFFRA:

5 Q. Mr. Jackson, you are former president of the Security  
6 Bank of Paragould?

7 A. That's correct.

8 Q. What years were you president of the Security Bank of  
9 Paragould?

10 A. Gosh, that's been so long ago. I'll have to stop and  
11 think of the time. I joined the bank as a vice-president and  
12 chief credit officer, I think, in 1969, August of '69, and I  
13 became president and CEO, as I recall, in January of 1970,  
14 some 25, 26 years ago. So I, if I'm off a month or two,  
15 please, don't fault me, but those are reasonably accurate  
16 estimates of when I became affiliated with the bank.

17 Q. And you left the bank when you became Commissioner of the  
18 Arkansas State Bank Department in 1983?

19 A. I think the common terminology is when I became Bank  
20 Commissioner.

21 Q. For the State of Arkansas?

22 A. Yes, sir.

1 Q. And you were appointed to that position by Governor  
2 Bill Clinton?

3 A. That's correct.

4 Q. How long have you known Bill Clinton?

5 A. Oh, I have known of Bill Clinton, I guess, since the --  
6 since he ran against John Paul Hammerschmidt.

7 Q. That was for Congress?

8 A. For the Congress back in the '70s. I didn't meet him  
9 until he ran for Attorney General sometime in the late '70s.  
10 I met him briefly as he came -- stumped, as he campaigned in  
11 northeast Arkansas. My relationship with Governor Clinton was  
12 not a, an intense close personal or intense political  
13 relationship.

14 You know, I knew who he -- I knew who he was. I knew he  
15 did surprisingly well at running against a man held in very,  
16 very high esteem by all Arkansans -- John Paul Hammerschmidt,  
17 a very good friend of mine. Had I lived in the district, I  
18 probably, I would probably never been appointed by  
19 Bill Clinton to anything because I probably would have  
20 supported John Paul Hammerschmidt, but that's, that's a  
21 hypothetical question.

22 Q. Did you, did you contribute to Governor Clinton's



1 campaigns for governor?

2 A. There are -- some of his campaigns I made very modest  
3 contributions to. Some of his campaigns I didn't.

4 Q. Did you --

5 A. And I don't recall which.

6 Q. Well, did you serve as a volunteer on any of  
7 Governor Clinton's --

8 A. No.

9 Q. -- campaigns?

10 A. Maybe beyond, maybe introducing him -- I introduced him  
11 one time at church. He spoke at a layman's -- we Methodists  
12 every October have a thing called Layman's Day and they  
13 invited him while he was Attorney General and he was putting a  
14 lot of emphasis on crime and family and, and the church -- and  
15 the church and the home being kindly a better solution to that  
16 than trying to find enough money in a poor state. Arkansas is  
17 a very poor state.

18 So they invite -- someone at the church, not me -- maybe  
19 the minister. Somebody invited him and I was what was called  
20 church lay leader and I introduced him at that time.

21 Q. Have you had any contact with President Clinton since  
22 January 1993?

---

10

1 A. I got a Christmas card.

2 Q. Anything else?

3 A. Not that I recall.

4 Q. Okay. Do you know Hillary Clinton?

5 A. Well, yes. I know who she is. Again, I have enjoyed a  
6 pleasant relationship of a very, very limited scope with  
7 Hillary Rodham Clinton. I did not know her until after  
8 Governor Clinton was elected Attorney General and she became  
9 active in his first campaign for governor. And I, that was  
10 the first time I think I ever met her.

11 And then, then in the years that I served as Bank  
12 Commissioner, occasionally I would see her at public events.  
13 You know, I might be seated at a table where they seat State  
14 officials and sometimes I might be seated by her. But --

15 Q. While, while you were the State Bank Commissioner, what  
16 was the extent of your contact with Governor Clinton?

17 A. Surprisingly limited.

18 Q. Would you say once a month perhaps? Did you attend --

19 A. I don't think it would average once a month. It would be  
20 sometimes. If the legislature was in session and the  
21 Constitution of Arkansas calls for the legislature to meet for  
22 60 days every 2 years. There are many of us that think that's

1 a typographical error. It should be 2 days every 60 years --  
2 notwithstanding the fact that my legal counsel's father is a  
3 former governor.

4 But if the legislature were in session and I was being  
5 asked by members of the general assembly to explain pending  
6 legislation, if the Governor happened to be in the same room  
7 or if he, if I met him going and coming from that, I might see  
8 him, oh, two or three times a week. But that's kind of like  
9 seeing the moon. I mean, you see it in passing, but as far as  
10 sitting down and talking with him or having any kind of  
11 discussion with him, I would say five or six times a year  
12 would be a fairly high number.

13 Q. Okay.

14 A. While the Bank Commissioner is appointed by and serves at  
15 the pleasure of the Governor and he can dismiss you summarily,  
16 Governor -- that particular Governor, his admonition when he  
17 appointed me was to be a very stern watchdog with regards to  
18 the banking community and not to worry about the politics and  
19 I took him at his word.

20 Beyond that I -- once or twice while I served, I made an  
21 appeal to him to get the examiners out of a vehicle that I  
22 called "Dodge pantyhose with wheels." They were Dodge Aries

---

1 and four examiners with portable typewriters and portable  
2 calculators and a briefcase full of bank department or bank  
3 records and clothes for a week or two would get in those  
4 vehicles early, like 6:00 a.m. Monday morning, and maybe drive  
5 from here to Fayetteville or from here to the Greenville  
6 Bridge to Eudora. And what we were doing was far in excess of  
7 the manufacturers' design for the capacity of those cars.

8 Q. Okay. Let's --

9 A. So I did see him. I did talk to him two or three times  
10 about upgrading the cars to a mid size sedan.

11 Q. Okay. Now, you left -- stopped being Banking  
12 Commissioner in '87, correct?

13 A. That's correct.

14 Q. Now, do you know Jim McDougal?

15 A. I don't -- my intention, my purpose for being here today  
16 is not to be here as an advocate for Bill and Hillary Clinton  
17 or to be here as an advocate for the majority party or the  
18 advocate for the minority party. My purpose for being here is  
19 to, to tell you the truth as best I remember it and as I know  
20 it.

21 Now, if I answer that the way I normally would answer  
22 someone asking me this question in an Arkansas hearing or

1 something, I would say, well, I know Jim McDougal kind of like  
2 I know the moon or a star and I know that he's there. I met  
3 Jim McDougal, I think, twice while I was Bank Commissioner  
4 while he was still involved in the bank at Kingston.

5 Q. All right. Let's turn to the bank at Kingston. As State  
6 Banking Commissioner, you were charged with regulatory  
7 oversight responsibility for the Bank of Kingston, correct?

8 A. I had joint authority with the Federal Deposit Insurance  
9 Corporation, yes.

10 Q. And the Bank of Kingston subsequently was known as the  
11 Madison Bank & Trust?

12 A. That is correct.

13 Q. And the Madison Bank & Trust was owned and operated --

14 A. I think the word trust is in there.

15 Q. And the Madison Bank & Trust was owned and operated by  
16 Mr. McDougal?

17 A. Well, he owned --

18 Q. Part of it?

19 A. -- part of it.

20 Q. Along with Mr. Tucker and Mr. Smith?

21 A. I do not recall whether Mr. Tucker owned any of it or  
22 not. I believe that Steve Smith owned an interest in it and

1 then some other people owned an interest in it. I don't think  
2 it would be fair to characterize it as being owned by  
3 McDougal, Tucker and Smith. Collectively they might have  
4 owned -- I do not know. I do not recall Tucker owning any,  
5 but he could have. I just don't, I mean, that's -- 1990 --  
6 1983 and this is 1996 and I have had no occasion to review  
7 those records if they still exist.

8 Q. Okay.

9 A. But they might have owned 51 percent collectively. No  
10 one of them owned control or came under the, the provision of  
11 bank regulation or law as being the control -- owning  
12 controlling interest in the bank.

13 Q. Did there come a time in the 1980s when you learned that  
14 Governor Clinton was in a business venture known as Whitewater  
15 Development Corporation with Jim McDougal?

16 A. No, sir, they did not.

17 Q. You never learned of the --

18 A. Not in 19 -- when did you say?

19 Q. During the 1980s, at any time during the 1980s.

20 A. Not at all during the 1980s.

21 Q. So you were, not -- when was the first time you learned  
22 of Governor Clinton's investment in Whitewater Development



1 Corporation?

2 A. I learned that he was involved in an investment with  
3 Jim McDougal in the '80s. I had no idea what it was.  
4 Candidly, I didn't know where it was. I erroneously  
5 thought -- since it began while they all lived in  
6 Fayetteville, I erroneously thought it was at Beaver Lake near  
7 Rogers and Springdale, near Fayetteville. I later learned by  
8 the, from the press that was not true.

9 I think in the, during the campaign, someone called me  
10 and asked me about them being partners in a, a development and  
11 whether they told me the name of the development or not, I  
12 don't recall. I do know that I was besieged by the press  
13 beginning in 1994 and through most of 1995, and during that  
14 period of time a reporter proved me wrong as to where the  
15 project was in that I thought it was in extreme northwest  
16 Arkansas when in fact it's in the north central part of the  
17 state.

18 MR. COLE: Mr. Giuffra, on your question to  
19 Mr. Jackson about his knowledge of the Whitewater  
20 investment, just so that he's aware of the records  
21 that the Committee has, there is a, what I believe  
22 to be --

1 Mr. Jackson, I'll place in front of you a  
2 report of examination of the Arkansas Bank  
3 Department from 1993 -- I'm sorry, 1983, dated June  
4 27, 1983. And there is an attachment to that that  
5 lists Whitewater Development Corporation. I have no  
6 reason to believe that you saw this as opposed to  
7 someone on your staff, but I wanted you to be aware  
8 of it.

9 THE WITNESS: You have -- does it show who the  
10 Commissioner was on the --

11 MR. GIUFFRA: Yeah. I don't think you were the  
12 commission -- well --

13 THE WITNESS: On the cover sheet?

14 MR. COLE: It shows the examiner in charge, a  
15 Mr. Steven Purdy. It does not show, that I've seen,  
16 the Commissioner.

17 THE WITNESS: I was, I was not Commissioner  
18 when that examination was done.

19 MR. COLE: In June of 1983?

20 THE WITNESS: No. I was in June, but the  
21 examination was probably done before.

22 MR. COLE: Previously.



1 THE WITNESS: Took -- at that time they used  
2 Smith-Corona portable typewriters to type that kind  
3 of report with and it took sometimes two or three  
4 months to type. And even, even, let me, let me  
5 emphasize this. If, in fact, there should be in  
6 that examination a page where the examiner in  
7 charge, Steve Purdy, and the Commissioner's or  
8 Assistant Commissioner signed it -- if, in fact, I  
9 signed it, it would not change my answer at all.

10 I have no, no knowledge. I have no  
11 recollection. I have absolutely no memory of the,  
12 of Whitewater Development until the press began to  
13 call me about it and I think I bet a soda or  
14 Coca Cola or hamburger with the guy from Time  
15 magazine or someone that it was Beaver Lake over  
16 near Rogers and that it was in northeast Arkansas.  
17 It turned out we were both wrong. It's in north  
18 central Arkansas as you know, since you're from that  
19 area.

20 MR. COLE: Yes, sir.

21 BY MR. GIUFFRA:

22 Q. Sir, did there come a time during the 1980s when you

1 became aware of a \$30,000 loan that Hillary Clinton had  
2 obtained from Madison Bank & Trust?

3 A. I became aware that either Bill or Hillary Clinton -- one  
4 or the other or both and I do not recall. It's been more than  
5 13 years, or more than 12 years -- that they had a loan that  
6 had originated back in the '70s sometime at or about the  
7 \$30,000 amount. Through the documents I've been shown by the  
8 press and I've, that I've seen on TV suggests that at the time  
9 I was dealing with the Bank of Kingston, that the balance on  
10 the loan had been reduced to \$20,700 or \$20,000-plus or  
11 \$22,000.

12 Q. Do you, do you have any recollection as to how you became  
13 aware of this loan that Mrs. Clinton had outstanding with  
14 Madison Bank & Trust?

15 A. The Bank of Kingston was a \$3 million bank. The -- at  
16 that time. The bank, Riggs National Bank in Washington, D.C.,  
17 they have more money that falls through the crack in the floor  
18 called the over and short account, miscellaneous loss, than  
19 that bank had in total assets. It was in a town of a hundred  
20 and sixty-seven people. It had fairly recently undergone a  
21 change in management and had become, it -- prior to undergoing  
22 the change of management, it was just sitting there.

1 It's what's called "coupon bank." All of its money was  
2 invested in government bonds and the owners just clipped  
3 coupons and did not make loans. As I recall the loan/deposit  
4 ratio was 12 or 15, less than 20 percent. They did make a  
5 loan, a local loan or two and they found out that loans paid  
6 considerably more than government bonds and that it helps the  
7 community. And with that, that and for whatever other reasons  
8 they may have had, they began to become quite aggressive in  
9 making loans.

10 Q. Did they make some of these loans out of territory?

11 A. Yes. And that was, that's where I was headed. They  
12 engaged in a practice that in and of itself, at that  
13 particular time, was not a violation of Federal banking  
14 regulations, was not a violation of State law or State banking  
15 regulations, but if, if continued on an ongoing basis, those  
16 of us who had been in the profession -- at that time I had  
17 been in the profession 25 years -- were aware that if you keep  
18 making loans out of territory that there is extra risk in it.

19 Q. Because you don't have as good a sense of the nature of  
20 the risk?

21 A. You don't -- that's right. You can't, it's kind of like  
22 the Biblical times. People that fought in foreign lands got

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20

1 four times the measures of grain because the likelihood of  
2 getting a spear in the gizzard over in the Phillistines was  
3 much greater than if you stayed at home and fought in the  
4 fort.

5 There was the same, that analogy maybe is not crude to  
6 you people from the capital, but it's very, very applicable to  
7 Arkansas lending in that if you don't see your borrower and,  
8 and, and/or your collateral every day or every week, you don't  
9 know how their business or their profession is getting along.  
10 There is added risks. So if you drive to its logical  
11 conclusion, a pattern of making out-of-territory loans, the  
12 logical conclusion is sooner rather than later you're going to  
13 have some problems on your payments.

14 And one such loan not -- when it was made, it was really  
15 not an out-of-territory loan, the Clinton loan. And I don't  
16 recall whether it was to Mrs. Clinton or whether they followed  
17 the practice that most banks follow and required the spouse to  
18 sign. Arkansas is a quasi public, quasi joint property state.  
19 Even a husband has a dower interest in property in Arkansas,  
20 so most banks require everybody to sign.

21 I don't recall that. But when they first put the loan  
22 together, as I recall and, and as my memory has been refreshed

1 by the members of the press or the Special Prosecutor's staff,  
2 it was back in the '70s when they all lived over in the  
3 Fayetteville area and subsequent to that they moved to  
4 Little Rock to be Attorney General and then ultimately  
5 Governor and then they were out of office for two years and  
6 then they were back in for eight or ten years.

7 Q. And so this loan was ultimately deemed to be an  
8 out-of-territory loan?

9 A. Yes. At the time I was Bank Commissioner, at the time I  
10 was dealing with it, it very definitely met the -- it met my  
11 definition --

12 Q. Of out of territory?

13 A. -- of out of territory and, and, and we discussed that  
14 with the bank. There wasn't, you couldn't go to any law book  
15 and you couldn't go to any examiner's manual and find a  
16 definition of what is out of territory. So we kind of agreed  
17 with the bank that if it had a Madison County, Arkansas zip  
18 code or if the collateral were in Kingston or Madison  
19 County -- for instance, the, one of the loans that was not on  
20 there, one of the largest loans of the bank, a man from  
21 Fayetteville had -- in the oil business had built the only,  
22 the new, the only thing that was less than 60 or 70 years old

---

1 in that town, a new Pack and Snack and serve yourself service  
2 station on the corner.

3 And even though he lived in Fayetteville, all the  
4 collateral was right there where you could see it from the  
5 lobby of the bank. And so his loan -- and it was only 20  
6 miles from Fayetteville.

7 Q. Okay. Now, you're, now, in -- you're aware that in  
8 September of '82, the FDIC began to examine Madison Bank; did  
9 you know that?

10 A. Yes.

11 Q. And that, were you aware that the FDIC submitted a notice  
12 of charges to Madison Bank on January 5, 1983?

13 A. No. I didn't remember it that way at all.

14 Q. Do you know what, what a notice of charges is?

15 A. I have a vague -- I have a layman's understanding of  
16 notice of charges.

17 Q. Well, why don't you -- what is a notice of charges as far  
18 as you know?

19 A. It's, it's -- it's giving bank notice that they're going  
20 to, to file some type of action under some provision of the  
21 FDI act.

22 Q. Okay. Let me show you a document that's been marked --



1 MR. COLE: The FDI act, Federal Deposit  
2 Insurance act?

3 THE WITNESS: Yes, the Federal Deposit  
4 Insurance act.

5 BY MR. GIUFFRA:

6 Q. That's been marked FCH 367 to 374, and this is the notice  
7 of charge as filed against Madison Bank?

8 A. Can I --

9 Q. You may peruse it, sir.

10 MR. COLE: Do you want to go off the record for  
11 a moment while Mr. Jackson looks at it?

12 MR. GIUFFRA: Yeah, why don't we.

13 THE VIDEOGRAPHER: Off the record at 2:42.

14 (A discussion off the record was held and  
15 proceedings resumed.)

16 BY MR. GIUFFRA:

17 Q. So, Mr. Jackson, do you see that on Page 368, which is  
18 the second page of this notice of charges?

19 A. Yes.

20 Q. It says, quote: The bank has an excessive and  
21 disproportionately large volume of loans to borrowers residing  
22 or conducting business outside of its defined trade area.

1 Do you see that?

2 A. Yes.

3 Q. Okay. So that's the issue of --

4 A. Yes.

5 Q. -- out-of-territory loans. Now, on the, Page 371 which  
6 is three pages later, the notice cites the bank's extension of  
7 credit to Whitewater Development Corporation as an example of  
8 such an out-of-territory loan. Do you see that?

9 A. Yes, I do.

10 Q. And also, I believe, it mentions an extension of credit  
11 to Madison Guaranty as well?

12 A. Yes, it does.

13 Q. Okay. And then --

14 A. I am not saying that at some time in 1983 that I did not  
15 see or review that. I'm saying that the document that we  
16 ultimately served the bank, cease-and-desist order, that was  
17 modified and that I actually joined with --

18 Q. The FDIC.

19 A. -- the FDIC at their request in issuing the  
20 cease-and-desist order.

21 Q. Well, there came a time, I believe it was in April of  
22 '83, that the Madison board consented to the entry of a



1 cease-and-desist order; do you recall that?  
2 A. I thought it was September or October, but now that's,  
3 again, 13, 14 years ago.  
4 Q. Yeah. It's April 7, 1983. See that? It's a document --  
5 A. Yes.  
6 Q. The document --  
7 A. Well, there, there may be -- there may very well be more  
8 than one.  
9 Q. Cease-and-desist order.  
10 A. There may very well be more than one. See this, this  
11 preceded my being Bank Commissioner. You see Beverly  
12 Lambert's signature?  
13 Q. Yeah, I see that.  
14 A. That was my predecessor.  
15 MR. COLE: Mr. Jackson, could I ask you one  
16 clarifying question --  
17 THE WITNESS: Yeah.  
18 MR. COLE: -- on this issue? And perhaps  
19 Mr. Giuffra intended to get to this, but you  
20 testified previously that the out-of-lending-area  
21 loans were not prohibited by either Federal or State  
22 regulation if I understood your testimony.

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1 THE WITNESS: Not in and of themselves. They had  
2 to be to, as that wording said to such an extent  
3 that they constituted an imprudent, or reckless or  
4 imprudent lending activities.  
5 MR. COLE: That was my question. So this  
6 action was taken under the more general supervisory  
7 authority?  
8 THE WITNESS: That's correct. And that's the  
9 basis upon which I ultimately joined the, in issuing  
10 a cease-and-desist order that required among other  
11 things that the loans be removed, a time schedule on  
12 which they were to be removed.  
13 MR. COLE: I just wanted to be clear for our  
14 record as to the distinction between activity at  
15 Madison Guaranty -- I'm sorry -- Madison Bank &  
16 Trust that was illegal or prohibited by law on the  
17 one hand and on the other hand activity that may  
18 have been imprudent or --  
19 THE WITNESS: This came under the general  
20 clause of imprudent banking practice.  
21 MR. COLE: Thank you.  
22 THE WITNESS: Not a specific, not a violation

1 of a specific regulation. You can't turn to  
2 Section Q 824 or U.S. 12 something or another,  
3 U.S. 18 something or another, or Arkansas 67405 --

4 BY MR. GIUFFRA:

5 Q. Well, once you consent to a cease-and-desist order  
6 requiring a bank to take action with regard to out, with  
7 regard to out-of-territory loans, the bank is obligated as a  
8 matter of law to take that action with regard to the  
9 out-of-territory loans, correct?

10 A. I'm not a lawyer. I would not answer -- I would have to  
11 decline respectfully, not to be smart with you, to render a  
12 legal opinion. I would tell you that it would be very ill  
13 advised from a practical standpoint for a bank under the,  
14 subject to supervision of the Federal government and the State  
15 government not to abide by a cease-and-desist order that they  
16 had consented to.

17 Q. Now, what effect, if any, did the cease-and-desist order  
18 have on Mrs. Clinton's loan with Madison Bank & Trust?

19 A. The only time that I, that I had an occasion to deal or  
20 meet with Mr. McDougal and Mr. Smith, a, one of the Ozark  
21 natives, one of the Kingston natives raised that question and  
22 said --

1 Q. Was this back in the 19 -- in 1983 or '84?

2 A. 1983, late '83 or, or '84 -- said on this list of  
3 out-of-territory loans, Commissar, said I notice that --

4 Q. Who was the Kingston person?

5 A. This is some, some local rancher or trapper or hunter.

6 MR. COLE: Was this person a member of the  
7 board of directors of the bank?

8 THE WITNESS: Yes. He was a member of the  
9 board of directors, what we call outside local  
10 director.

11 BY MR. GIUFFRA:

12 Q. Okay. So an outside director of the Madison Bank & Trust  
13 said to you sometime in late '83 that Mrs. Clinton's loan was  
14 out --

15 A. When they consented to the final -- this thing was  
16 modified two or three times that you're looking at. When they  
17 consented to the final cease-and-desist order, it was signed  
18 by me and, I think, A. David Meadows, the original director of  
19 the FDIC, the question arose about, from this quaint native --  
20 and he addressed me not as Commissioner, which did not offend  
21 me. What he addressed me as one, among the nicer things. He  
22 called me Commissar.

1 He said: This Hillary Rearham Clinton (sic),  
2 Billy Clinton loan on here, are we supposed to make an  
3 exception to it? And I'm not a rocket scientist and I don't  
4 consider myself anything but a redneck, ragged legged Arkansas  
5 banker, but I recognized it was a litmus test to see if the  
6 Bank Commissioner was going to play politics.

7 And my response was not no, but hell, no, we're not going  
8 to make an exception to it. They live in Little Rock. Their  
9 address and their zip code is outside of Madison County and  
10 the hundred and three million dollar bank in a town of a  
11 hundred and sixty-seven people can ill afford to be making  
12 those kinds of loans to people. If you make an exception for  
13 them, then you just open a gate to make an exception to a lot  
14 of people. So there is, there are no exceptions.

15 Q. Let me show you a document which, unfortunately, the  
16 Bates number is not very good on the copy I have. It's dated  
17 June 14, 1984. It's a memo from William Milam, acting chief  
18 review examiner, to Marlin Jackson, Bank Commissioner, and it  
19 is a progress report regarding the Madison Bank & Trust. If  
20 you could just take a look at this document, sir. Do you  
21 recall ever seeing that document?

22 A. There is no doubt that the William who I know as

1 Bill Milam, if he directed this to me, that I, that I reviewed  
2 it.

3 Q. Okay. Now, this, this report lists Mrs. Clinton's loan  
4 as a loan that needed to be paid off because it was an  
5 out-of-territory loan; is that right?

6 A. That's correct.

7 Q. And --

8 A. This, this report shows it had been paid off.

9 Q. It was paid off, but it had to have been inconsistent  
10 with meeting the requirements?

11 A. Some earlier report of examination or cease-and-desist  
12 order probably had it listed as when it came due it had to be  
13 paid off.

14 Q. And --

15 A. In this instance, it really doesn't -- it's not speaking  
16 prospectively. It's speaking postspectively that it was -- it  
17 says, paid off.

18 Q. Now, did you ever --

19 A. There is a zero balance.

20 Q. Yeah. Did you ever speak with Mr. McDougal about the  
21 problems of the bank, Madison Bank?

22 A. I had a -- yes. I think I mentioned --



1 Q. Yeah.

2 A. -- that I had a board meeting and --

3 Q. What else, what else happened at that meeting that you  
4 can recall?

5 A. Well, we went over the report of the examination and we  
6 went over the, the copy of the cease-and-desist order with an  
7 addendum to it that the bank department, under my direction,  
8 had recommended to the regional director. We went over it and  
9 we asked the, at the board, we told, gave the board -- gave it  
10 to the board and asked them to either consent to it within, I  
11 think they had a statutory time limit of ten days or to notify  
12 us they did not intend to. They summarily at that meeting,  
13 after asking just two or three questions, one of which I've  
14 already shared with you -- was Mrs. Clinton or the Clintons to  
15 be made an exception and my answer was no.

16 They signed the consent to the cease-and-desist order.  
17 Maybe, following the meeting, I might have had a five-minute  
18 post-meeting discussion with Jim McDougal relative to the  
19 difference in which banks operated and my expectation as Bank  
20 Commissioner and the, the FDIC officials there and their  
21 expectation as to how banks should be operated versus what had  
22 been announced by the chairman of the FSLIC as a very loose

1 expectation. I believe a man named Pratt was the chairman at  
2 that time and he made speeches all over the United States  
3 telling -- in fact, he cited, and I don't say this in any  
4 defense of McDougal or anybody, but he cited Mc, the --  
5 McDougal and his innovative practices with regards to the  
6 island and with regards to the development in a slough between  
7 here and Pine Bluff, Maple --

8 Q. Maple Creek.

9 A. Maple Creek.

10 Q. And the first one you mentioned was Campobello?

11 A. Yes.

12 Q. That's up in Canada --

13 A. Yes.

14 Q. -- where Mr. McDougal had a real estate development?

15 A. Well, he -- Mr. Pratt was chairman of the FSLIC and was,  
16 as such was the head regulator of the all the savings and  
17 loans and he basically in one of the speeches I heard him give  
18 in Dallas, Texas and one in Washington said that if you're  
19 going to be a savings and loan and be in existence three years  
20 from now, then you're going to need to do all these things and  
21 at the one in -- I believe it was in Dallas, but I'll say it's  
22 in Denver -- it's been more than 13 years. It was before I



1 became Bank Commissioner. You're going to have, need to do  
2 like the folks have done at, and what was, I think it was  
3 McCrory or Woodruff County Savings & Loan.

4 MR. COLE: Assess --

5 THE WITNESS: You're going to have to do  
6 innovative new things and we're going to be your  
7 partner and we're going to give you a lot of new  
8 authority and I'll give you new latitude and my  
9 brief discussion with Mr. McDougal was: Commercial  
10 banks are going to be expected to adhere to the  
11 fundamental tenets of safety and soundness and  
12 profitability and as your Commissioner I will not  
13 harbor any deviation from that.

14 And that, and one 30, maybe one 45-second or,  
15 1-minute telephone conversation in which  
16 Mr. McDougal called me was only discussions I ever  
17 had with Mr. McDougal.

18 MR. GIUFFRA: Do you want to do his follow, you  
19 want -- can we go off the record for a second?

20 MR. COLE: Yeah.

21 THE VIDEOGRAPHER: Off the record at 2:57.

22 (A discussion off the record was held and

1 proceedings resumed.)

2 EXAMINATION

3 BY MR. COLE:

4 Q. Mr. Jackson, before Mr. Giuffra moves into his next area  
5 of questioning I wanted to ask you, briefly, sir, just a  
6 couple of clarifying questions about the loan that we've been  
7 discussing that Madison Bank & Trust, formerly Bank of  
8 Kingston, had made to Mrs. Clinton. Would that loan standing  
9 alone by itself have violated any law or regulation?

10 A. Absolutely not.

11 Q. And would there have been any reason that Mrs. Clinton or  
12 anyone else aware of that loan would have had reason to think  
13 that that loan presented a problem from a bank-regulatory  
14 perspective?

15 A. Only someone with a long history in banking or bank  
16 supervision would have known about it, and had it been only  
17 one of three or four loans in the bank, it wouldn't have --  
18 wouldn't have been anything said about the loan.

19 Q. That was --

20 A. Now, if it happened that it was one of a dozen or a dozen  
21 and a half and when you've got that many, then it calls  
22 attention to all of them.

1 Q. That was going to be my next question. It wasn't the  
2 fact of this loan or the circumstances of this particular loan  
3 that created the problem, if I'm understanding your testimony  
4 correctly. It was the fact that a number of other similar  
5 out-of-territory loans had been made by Mr. McDougal and in  
6 the aggregate, in your view and the view of the Federal  
7 regulators, that created a potential problem.

8 A. That's correct. And, in fact, at a meeting with the  
9 board, while we had listed them in a category called sub  
10 standard simply because they were out of territory, we made  
11 clear that we really didn't, we weren't saying that there are  
12 losses inherent in any of these loans. And the best I  
13 recover -- the best I recall, if not all, substantially all of  
14 the out-of-territory loans were paid in full.

15 They did have some losses at the bank, but they were  
16 mostly to the farmers and ranchers who had fell upon hard  
17 times because of the 23-percent interest you had to pay for  
18 money if you could get it.

19 Q. So for those who are following this and don't have your  
20 experience in bank regulation, there was nothing wrong with  
21 this particular loan?

22 A. Oh, no. As a matter of fact, had a Little Rock bank or

1 had a Memphis bank or for that matter a Chicago or a New York  
2 bank with millions of dollars of capital or billions of  
3 dollars of capital had made this loan, it would never have  
4 been considered inappropriate or subject to discussion even,  
5 much less classification.

6 Q. And do you recall --

7 A. See, you got to, you have to keep in mind the size of the  
8 institution, the size of the town that it's in and the  
9 relative, that size relative to the size of the loan. If the  
10 bank had have been First National Bank or if the bank had been  
11 McElroy Bank & Trust Company of Fayetteville, the loan would  
12 never have been mentioned.

13 Q. But even though this was only a \$30,000 loan, in that  
14 bank that was a loan that was large enough to --

15 A. Yes. And again, I don't mean to banter with you at all  
16 or be impolite. My memory was at the time the loan was paid.  
17 Now, that sheet should show -- what was the balance shown on  
18 that sheet when it was paid? At the time I was dealing with  
19 it --

20 MR. GIUFFRA: \$26,792?

21 THE WITNESS: Okay. It was more. I thought it  
22 was twenty-two. It had started out at that and they

1 had paid it down some. It's a common practice that  
2 you pay 10 percent of the principal and the interest  
3 and they renew it for a year.

4 BY MR. COLE:

5 Q. And just to close this out, do you recall of the other  
6 out-of-territory loans that Mr. McDougal had made that and you  
7 the Federal regulators commented on, do you -- and by other I  
8 mean other than the loan to Hillary Clinton that we have been  
9 discussing. Do you recall whether any of those loans were  
10 to the Clintons or to Whitewater Development Company or anyone  
11 affiliated with them --

12 A. No.

13 Q. -- to your knowledge?

14 A. To my knowledge, to my memory they did not. Now, in the  
15 cease-and-desist order, it makes record to it of, of a loan to  
16 them.

17 Q. Yes.

18 A. I have no, I have no knowledge and I'm not sure but what  
19 that cease-and-desist order isn't, isn't including the loan to  
20 Mrs. Clinton as a loan to --

21 Q. To Whitewater?

22 A. -- Whitewater.

1 Q. To Whitewater Development Corporation?

2 A. Because as I understand it from the press, not from any  
3 memory, but as I understand it from the press, the proceeds of  
4 the loan went to Whitewater, went to their resort development  
5 thing.

6 Q. Thank you.

7 FURTHER EXAMINATION

8 BY MR. GIUFFRA:

9 Q. Mr. Jackson, did there come a time in 199 -- 1983 when  
10 you informed then Governor Clinton of the problems at Madison  
11 Bank & Trust?

12 A. Sometime after the cease-and-desist order that I signed  
13 with the regional director.

14 Q. And you think that was approximately when?

15 A. I think it was the -- late August or September or  
16 October --

17 Q. Okay.

18 A. -- of '83. Three days or a week -- I don't recall which,  
19 it could have been ten days -- after I signed that, surely  
20 through coincidence, late in the afternoon, I'm talking about  
21 like 6:00 o'clock, the Governor exited the Capitol Building at  
22 the same time I did. I have been asked by Matt Murphy from



1 Hamburg, Arkansas, who looked like, more like Colonel Sanders  
2 than Colonel Sanders did -- he played the fiddle -- and he was  
3 head of the agricultural committee. I had been asked to come  
4 over and appear before his committee.

5 He introduced me first as one of Arkansas' renegade  
6 sheriffs, Marlin Hawkins, and he said, no, no, that's not  
7 right. It's Marlin Perkins. And the committee all got a  
8 laugh out of it, and that's the only reason it's a memorable  
9 occasion. And I really did not know Bill Clinton very well  
10 and as we left the building late that afternoon, through pure  
11 coincidence -- the committee adjourned as he decided to leave  
12 and my office at that time, or the Commissioner's office, was  
13 west of the capitol in the annex, what's called the Big Mac  
14 building and we happened to be using the same door. He parked  
15 a Lincoln Town Car right in front of it, and I parked a Dodge  
16 Aries a mile away by the revenue office.

17 And I, I cannot, I cannot under oath swear to you that  
18 this is exactly what I told Bill Clinton, but it is 99 percent  
19 accurate. I said, in my capacity as Bank Commissioner, it was  
20 my responsibility to have a meeting with the Bank of Kingston  
21 board of directors, including your former staffer,  
22 Jim McDougal, and it was my responsibility as Bank

1 Commissioner to join with the Federal government in  
2 structuring a document so as to cause them to stop making  
3 imprudent loans to out-of-territory people.

4 Q. How did you know that Mr. McDougal was a former staffer?

5 A. Well, it was in the paper, on television and the  
6 cartoonists, the political cartoonists had a field day talking  
7 about McDougal and Smith and Moore because they wore Adidas or  
8 Converse or somebody's tennis shoes and blue jeans and wore  
9 beards.

10 THE WITNESS: No offense, sir. No, offense.  
11 At that time beards on public officials in Arkansas,  
12 just, you just didn't see them, particularly in the  
13 governor's staff and he was the youngest governor in  
14 the state. So all you had to do was pick up the  
15 paper and you would see his, McDougal's name or  
16 picture with the Clinton people.

17 MR. COLE: And to slow down just a minute,  
18 Mr. Jackson, the time period that you're talking  
19 about was Governor Clinton's first term --

20 THE WITNESS: That is correct.

21 MR. COLE: -- 1979 to 1980?

22 THE WITNESS: That is correct.



1 MR. COLE: And the Smith you're referring to --

2 THE WITNESS: That is correct. He ran in '78  
3 and served in '79 and '80 and in '80 he was  
4 defeated. And it was that two-year period of time  
5 that Mr. McDougal served in some capacity on  
6 Governor Clinton's staff.

7 MR. COLE: And the Smith you referred to is one  
8 of the other aides whose name was in the paper was  
9 Mr. Steve Smith that you testified earlier --

10 THE WITNESS: I know that's correct.

11 MR. COLE: -- had some ownership in the Bank of  
12 Kingston?

13 THE WITNESS: That was my understanding.

14 MR. GIUFFRA: Okay. So --

15 MR. COLE: So just, just to finish, though,  
16 Mr. Giuffra.

17 So you understood at that time that two of the  
18 stockholders, including Mr. McDougal who was  
19 managing the institution of this bank, were former  
20 staffers of Governor Clinton and well known --

21 THE WITNESS: Yes. And I just simply told him  
22 that I had had the responsibility to deal with this

1 issue and that they either had or that they might  
2 appeal to him and that he just needed to know that I  
3 had done what I needed to do. And very candidly, it  
4 was, it was my, an instant of my giving him a litmus  
5 test. And he put the big left paw up around me. I  
6 was, I was quite a bit, I was quite a bit larger  
7 then than I am now and -- that wreck took a lot out  
8 of me. And he couldn't reach around me. If he  
9 could, he probably would have.

10 And he looked me in the eye and he said, you do  
11 whatever you need to do to be a good -- and then he  
12 stopped and he said, no, to be a great Bank  
13 Commissioner and don't worry about the political  
14 consequences. It doesn't matter who is involved.  
15 I'll take the political heat. You just do whatever  
16 you need to do to be a great Bank Commissioner.

17 BY MR. GIUFFRA:

18 Q. Now, did you mention Mrs. Clinton's loan to the Governor?

19 A. No.

20 Q. You never mentioned it to him on any occasion?

21 MR. COLE: What did you mean --

22 THE WITNESS: Well, not that I recall.

1 MR. COLE: What did you mean, Mr. Jackson, when  
2 you just said that for you that was you giving him a  
3 litmus test?

4 THE WITNESS: I really didn't know. Years ago,  
5 many years ago in the first days of banking -- and I  
6 never experienced it -- but senior bankers that I  
7 knew told me of instances when there was a lot of  
8 political skullduggery, political favoritism that if  
9 you wish to have something done by the Bank  
10 Commissioner, you didn't go see the Bank  
11 Commissioner, you went to see the Governor.

12 And I just wanted, I wanted to find out because  
13 I really wasn't, I wasn't all that happy. My family  
14 still lived up in northeast Arkansas and I had taken  
15 the vows of celibacy and the vows of solitude and  
16 the vows of poverty, all when I took the  
17 Commissioner's oath, living in an apartment here in  
18 Little Rock. And I wanted to know if, in my own  
19 mind, whether or not there was going to be an effort  
20 made -- and if there ever was going to be, I thought  
21 this would be it -- where the Governor would seek to  
22 interfere with the execution of my responsibilities.

---

1 BY MR. GIUFFRA:

2 Q. Okay. No discussion --

3 A. He did not.

4 Q. Okay. There was no discussion of Mrs. Clinton's loan at  
5 this time?

6 A. I do not recall any discussion --

7 Q. Okay.

8 A. -- of Mrs. Clinton's loan.

9 Q. And was it your ordinary practice to personally inform  
10 the Governor when a State bank was in trouble?

11 A. Not, not in, not, not in -- not in routine things. If  
12 there was serious trouble and a candidate for closing, yes.  
13 After all, he's the chief executive of the State and he was a  
14 person who appointed me.

15 Q. So this was somewhat unusual for to you advise him of a  
16 cease-and-desist order among --

17 A. I don't think I even told him the cease-and-desist order.  
18 I said I just did what the, what the bank --

19 Q. The primary motivation for you advising him was the fact  
20 that two of his former staffers owned the bank?

21 A. And, and to see what his reaction was and to prepare him  
22 for it if, in fact, they did come to him with a request. And

1 the way I stated it, that I want you to know and you need to  
2 know that I simply did nothing more and nothing less than what  
3 a Bank Commissioner has to do, that there wasn't, there wasn't  
4 any, wasn't any ground for re-thinking or cutting any slack.

5 MR. COLE: Was the cease-and-desist order,  
6 would that be a matter of public record?

7 THE WITNESS: No. A highly confidential  
8 record.

9 BY MR. GIUFFRA:

10 Q. Okay. I would like to show you a document, sir, which is  
11 a September 30, 1983 loan application submitted by  
12 Bill Clinton for a loan in the amount of \$20,800, and the  
13 purpose of this loan is listed as business expenses. It's an  
14 unsecured loan. The interest rate is 13 and a half percent.  
15 What do you know about this particular loan?

16 A. According to this application, it's a loan that -- and  
17 according to the press, it's a loan that the Governor and  
18 Mrs. Clinton obtained from the Security Bank of Paragould.

19 Q. Now, that was the bank that you had formerly been  
20 president of, right?

21 A. That's a bank I had formerly been the president of, yes.

22 Q. And did you also own a majority interest in the bank?

46

1 A. Yes, I did. Prior to being Bank Commissioner, and I did  
2 not at this time.

3 Q. And you put that interest, your majority interest in a  
4 blind trust; is that right?

5 A. That is correct.

6 Q. But you still were the majority owner of the bank as of  
7 September 30, 1983, correct?

8 A. No, not legally.

9 Q. Not legally because it was in a blind trust?

10 A. That's correct.

11 Q. Now, did you have any involvement with the underwriting  
12 of this particular loan to Governor Clinton?

13 A. Not that I recall.

14 Q. Did you talk to anyone at Security Bank about the loan  
15 prior to his approval?

16 A. No.

17 Q. About the Clintons' loan?

18 A. No.

19 Q. Did you suggest to Governor Clinton that he go to your  
20 former bank to obtain this loan?

21 A. Not that I recall. Having said that, I have seen press  
22 reports that, that say that I did. If Bill Clinton says,



1 Marlin Jackson suggested that I go see my long-time friend who  
2 took my place at the bank, Dr. Frank Olin, or my long time  
3 friend, Bill Fisher, and get that loan, if someone -- if any  
4 of them say that I did, I would not dispute it. I just have  
5 no memory of doing it.

6 Q. And you have no recollection of ever speaking to  
7 Hillary Clinton about this loan before it was made?

8 A. Before it was made, no.

9 Q. Okay.

10 A. Now -- now, let's distinguish before it was made --

11 Q. Absolutely.

12 A. -- while it was being made versus after it was made.

13 Q. Absolutely.

14 A. Okay.

15 Q. Now I want to show you a letter which bears Bates number  
16 DKSJN 1244. There is a letter from Marlin Jackson, Bank  
17 Commissioner, to Charles D. Campbell, Vice-President, Security  
18 Bank, dated November 1, 1985 and it says:

19 Dear Charles, I am enclosing the extension agreement  
20 which Governor Bill Clinton signed yesterday. It is my  
21 understanding that Jim McDougal, a close friend as well as  
22 business associate Governor Clinton, is to forward you a check

1 for \$2,322.42 representing interest due on the note. In  
2 discussing this matter with Jim today, vis-a-vis telephone, he  
3 indicated that he intended to make a 4 or \$5,000 principal  
4 reduction in addition to the interest payment. After making  
5 the appropriate approval of the extension agreement, please,  
6 return the appropriate copy to me and I will personally  
7 deliver it to Governor Clinton. Also please return copies of  
8 the receipt to me. So that Jim McDougal may know that the  
9 proper credit has been given, please provide Jim with a copy  
10 of the receipt for the payment of the interest and principal  
11 along with the copy of the extension agreement. I trust this  
12 meets with your approval and that it will soon remove the note  
13 from the past-due list.

14 Now, this is November 1, 1985 and it's written on  
15 Arkansas State Bank Department stationery and it's signed  
16 Marlin D. Jackson, Bank Commissioner. And you're aware of  
17 this letter?

18 A. I've been told about the letter.

19 Q. Have you ever seen the letter before?

20 A. No, I haven't. Well, I'm sure I did when I, I'm sure I  
21 did in 1985.

22 Q. Okay. In 1985 were you aware that this loan to



1 Governor Clinton which was, looked like the principal amount  
2 was a little bit over -- it looks like \$18,800 and the accrued  
3 interest was \$2,322.42. Were you aware that that loan was on  
4 the past-due list at the Security Bank of Paragould?

5 A. I don't -- I'm aware that letter says that. It's my  
6 understanding that the Clintons had paid the interest and had  
7 paid the principal payment. There was no law, State or  
8 Federal, that required an extension agreement. The former  
9 president of that bank who had been commanded by God to do  
10 punishment, penance by serving as Bank Commissioner, had  
11 established a practice of requiring written extension  
12 agreements.

13 And one Sunday, while in church, Mr. Campbell handed me  
14 an extension agreement and said, oh, I sent one of these to  
15 your boss, Bill Clinton, some days ago and I haven't heard  
16 from him. Would you get him to sign this -- or him and her to  
17 sign this and return it. And I said, well, this is church and  
18 I don't do bank business in church. And then I said,  
19 Bill Clinton knows next to nothing about business and  
20 absolutely zero about banking and he probably, is probably  
21 lying on his desk in the middle of all that debris. If  
22 you'll, if you would like, I'll be glad to give it to

1 Mrs. Clinton and she will obtain his signature and then I'll  
2 return it to you.

3 I did it. I had known Charles Campbell since he and I  
4 were in the 6th or 7th grade.

5 Q. But were you aware at this time that the bank, that the  
6 loan was past due?

7 A. I'm aware -- it depends on how you interpret what's past  
8 due.

9 MR. COLE: Perhaps you need to explain again  
10 what past due means in this context. The loan was  
11 not in default, I take it.

12 THE WITNESS: The loan was not in default, but  
13 the documentation required by that bank's policies,  
14 not by Federal law or Federal regulation, not by  
15 State law or State regulation, but simply by that  
16 bank's policy was that you didn't extend it until  
17 you got a written extension agreement.

18 Now, the prudence of my having established that  
19 policy has since come in to reality in that both  
20 State and Federal regulators now require as a matter  
21 of regulation and/or law that you get written  
22 extension agreements. So the loan was not in

1 default. Was it considered past due? Well,  
2 apparently I did. I considered it past due when I  
3 drafted that, dictated that letter.

4 My practice at that time was to arrive at the  
5 bank department between 2:30 and 3:00 a.m., do all  
6 of my dictation between then and 7:00, 7:15 so that  
7 when the first examiners began to arrive, I would be  
8 available for them to, to comply with.

9 Obviously, had I known that Bill Clinton was  
10 going to be President and I was going to be sitting  
11 here answering your-all's questions, I would have  
12 used my personal stationery, which was on the desk  
13 of the typist that did this, rather than bank  
14 department stationery.

15 BY MR. GIUFFRA:

16 Q. So do you think it was -- now, this, this letter was  
17 written on banking department official stationery; is that  
18 correct?

19 A. That is correct.

20 Q. And was this action, this request for the extension taken  
21 in your official capacity as Bank Commissioner?

22 A. It was done by me as an accommodation to the bank.

---

1 Q. And you weren't, were you acting as the Governor's  
2 personal banker at this point?

3 A. No, no, I wasn't. I was acting, I was acting as an act  
4 of friendship and accommodation to a young man that I had  
5 known since we were in junior high school.

6 Q. That's Mr. Campbell?

7 A. That's correct.

8 Q. Who had asked you to see --

9 A. Who had asked me if -- excuse me for interrupting.

10 Q. He had asked you to see if you could get the Governor --

11 A. Yeah.

12 Q. -- to sign the extension agreement?

13 A. That's correct. And handed me one, the extension about,  
14 oh, about --

15 Q. Did he indicate --

16 A. -- about two-thirds the size of a post card was what  
17 we're talking about, a slip of paper about two-thirds the size  
18 of a post card. And he handed it to me in church.

19 Q. Did he indicate that he was having problems getting the  
20 extension agreement signed?

21 A. He said that he had sent one to the Governor a few days  
22 before and it had not been returned.

- 1 Q. Was the extension agreement that he provided you, was it  
2 was Governor Clinton's name written in as well as the name of  
3 the note, the number of the note?  
4 A. I'm sure that it was, yes.  
5 Q. So it was all -- let me give you a copy of it.  
6 DKS 10522. Does that appear to be the extension agreement?  
7 A. Yes.  
8 Q. So the extension agreement that he provided to you in  
9 church was, contained the note number which is 60 -- 66041 and  
10 then 957-585 and had the origination date, listed the dealer  
11 and had the interest rate and the amount at the time of the  
12 extension. So it's your testimony that Mr. Campbell was  
13 carrying this extension agreement in his pocket and was  
14 planning on giving it to you in church?  
15 A. Yes.  
16 MR. COLE: Was that at Paragould, Arkansas?  
17 THE WITNESS: That is correct.  
18 MR. COLE: Mr. Giuffra is not from Arkansas.  
19 Maybe you could explain to him the difference.  
20 THE WITNESS: Well, it's a hundred forty or  
21 fifty miles north, northeast of here, or  
22 seventy-five to a hundred miles northwest of

- 1 Memphis, Tennessee.  
2 MR. COLE: And did Mr. Campbell know that you  
3 came home on occasion for church?  
4 THE WITNESS: Oh, yeah. We maintained a home  
5 in Paragould and, in fact, we still have a home in  
6 Jonesboro, Arkansas, which is 15 miles from  
7 Paragould. And he and I had been attending this  
8 same church for 10 or 15 -- well, 10 or 12 years.  
9 MR. COLE: So he knew that he would see you in  
10 church?  
11 THE WITNESS: But to hold this up to the camera  
12 and say that he handed this to me in church is quite  
13 different if you fold this down to the size the  
14 extension agreement was. I'm not doing a very good  
15 job of folding it.  
16 BY MR. GIUFFRA:  
17 Q. But it was a card-sized document, I understand.  
18 A. This, this he had in his coat pocket and he walked up  
19 beside of me and handed it to me and we had the exchange.  
20 Q. So he said, please, take care of this. Now, did you go  
21 talk to Bill Clinton about this?  
22 A. No, sir.



1 Q. Did you ask, did you -- how did you get the Governor to  
2 sign the --

3 A. As I recall, I sent, sent it. Now, I don't -- I recall  
4 sending it. I don't know what day or how, whether by courier  
5 or whether by runner -- courier being someone that uses a car  
6 and a runner is someone that goes back and forth between  
7 buildings in the downtown area -- whether I sent it to her or  
8 how you I sent it to her, but I sent it to Mrs. Clinton.

9 Q. You sent it to Mrs. Clinton at the Mansion or at the Rose  
10 Law Firm?

11 A. At the, at the law firm.

12 Q. You sent it to Mrs. Clinton at the law firm.

13 A. Yes.

14 Q. Did you send it with a note?

15 A. Yes.

16 Q. And the note said, please have the Governor --

17 A. Please obtain Bill's, Governor Clinton's -- and I may  
18 have said Bill's.

19 Q. Did Mrs. Clinton call you about the extension agreement?

20 A. No.

21 Q. Did you ever speak to the Governor about the extension  
22 agreement?

1 A. Not that I recall.

2 Q. Now, was it proper for you to send the extension  
3 agreement back to Mr. Campbell on official Arkansas State Bank  
4 Department stationery?

5 A. Oh, given, given the fact that instead of working 40  
6 hours a week, I was working 75 to 90 hours a week and given  
7 the fact that I wore out three sets of engines on a little  
8 twin engine Piper airplane at the reimbursement of 11 cents  
9 per mile and that when I left the Bank Department I left 68  
10 days of annual leave that I could have billed the Department  
11 for, I think the Department got a big bargain in me. There  
12 were no tax dollars involved in --

13 Q. No. But my question is, and it's a very simple question:  
14 Was it proper for you to use official State stationery to ask  
15 a bank that you were regulating -- and you would agree you  
16 were regulating Security Bank of Paragould?

17 A. Yes. Well, wait a minute.

18 Q. -- to grant an extension to the Governor?

19 A. Let me -- wait a minute, wait a minute. When I became  
20 Bank Commissioner, to the extent that Arkansas law permits, I  
21 relegated the supervision of the Security Bank of Paragould,  
22 because of my past interest in the bank and my knowledge that



1 the Wright, Lindsey, Jennings law firm had drafted a blind  
 2 trust in the stock that my family and I had owned that had  
 3 gone into that stock, in that trust, I relegated super, my  
 4 primary supervisory responsibilities to the Federal Deposit  
 5 Insurance Corporation.

6 Q. But you still had, you still --

7 A. Within the department, I relegated it to the Assistant  
 8 Commissioner.

9 Q. But you still had the ultimate authority?

10 A. You are correct. Under Arkansas statutory law, there  
 11 were certain responsibilities that I couldn't relegate to  
 12 anyone. They were inescapable.

13 Q. And isn't it true that this letter in the last paragraph  
 14 was asking you to grant the extension and remove the loan from  
 15 the past-due list? You're asking him to take action --  
 16 Mr. Campbell, correct?

17 A. Well, assuming it meets his approval.

18 Q. But you're asking him to take an action with regard to  
 19 the extension?

20 A. I believe, I believe -- I believe if you read this in its  
 21 entirety, it clearly says: I trust this meets with your  
 22 approval.

1 MR. COLE: Mr. Jackson --

2 BY MR. GIUFFRA:

3 Q. But you were asking --

4 THE WITNESS: In answer -- my answer to your  
 5 question is --

6 BY MR. GIUFFRA:

7 Q. But you were asking --

8 A. As primary, as -- as Bank Commissioner writing to a bank,  
 9 sending the bank a document that belonged to that bank, there  
 10 was not anything inappropriate with that. Now, had I known  
 11 that we were going to be having this meeting today, I would  
 12 not have used Bank Department stationery.

13 Q. So you would, you would agree it was a mistake to use the  
 14 Bank Department stationery?

15 MR. COLE: Let me --

16 BY MR. GIUFFRA:

17 Q. Just --

18 MR. COLE: Before, before --

19 THE WITNESS: I don't know that I would say  
 20 that it was a mistake. I'm just saying there were  
 21 other choices that would have been better.

22 BY MR. GIUFFRA:

- 1 Q. But it wasn't --  
2 A. It was not, it was not wrong. It was not illegal. It  
3 was not unethical. It was not immoral.  
4 Q. It was not improper?  
5 A. It was not sinful. It wasn't improper. If I had not  
6 been regulating, if that had been a national bank or if that  
7 had been a savings and loan over which I had no jurisdiction  
8 whatsoever, then I would question the propriety.  
9 Q. Can you, can you -- can you think of another instance  
10 while you were Bank Commissioner in which you ever sent  
11 documentation regarding a State official's loan to a bank and  
12 asked them to take certain actions with regard to that? On  
13 the official stationery of the --  
14 A. Many times, many times.  
15 Q. So you would --  
16 A. I, I've traveled -- I traveled all the way across the  
17 state one time on behalf of a bank as their Commissioner to  
18 induce a group of people to accommodate the bank.  
19 Q. So you would, you would -- you would as a regular matter  
20 send letters asking banks to take action with regard to  
21 loans --  
22 A. No.
- 

- 1 Q. -- on behalf of individuals --  
2 A. No.  
3 Q. -- on official stationery?  
4 A. No.  
5 Q. You wouldn't do that?  
6 A. No.  
7 Q. Can you think of another instance where you ever sent a  
8 document similar or asked a bank to take an action similar to  
9 the granting of an extension agreement for a single borrower  
10 and that you did so on the official stationery of the State  
11 Bank Department?  
12 A. I think there were a few other instances where I may have  
13 done so.  
14 Q. Do you recall the name of the borrowers?  
15 A. Not with any specificity.  
16 Q. Were they state officials?  
17 A. No, no. No.  
18 Q. So Governor Clinton would be the only State official for  
19 whom you ever asked a bank that you were in charge of  
20 regulating to grant an extension of a loan and did so on the  
21 State Bank Department stationery?  
22 A. I think I misspoke when I said, no, there were not State

1 officials. I think in some -- and I said there were three or  
2 four total instances. I think some of those people may have  
3 held some, held state offices also.

4 Q. And would those letters have also been sent to the  
5 Security Bank of Paragould?

6 A. No, no. That's the only one, only -- to my knowledge,  
7 that's the only, only loan to -- the only loan that I have any  
8 knowledge of in regards to the Clintons is that one at  
9 Paragould.

10 Q. Now, do banks --

11 MR. COLE: Mr. Giuffra, before you go on to the  
12 next, I think it's -- under the agreement we have  
13 for time, I should be permitted a few questions on  
14 this subject if we're focusing on the use of this  
15 letterhead.

16 FURTHER EXAMINATION

17 BY MR. COLE:

18 Q. Mr. Jackson, I'm putting the letter back in front of you.  
19 Did you type this letter?

20 A. No.

21 Q. Do the typist's initials down at the bottom mean anything  
22 to you?

1 A. Yes.

2 Q. Can you tell from that who typed it?

3 A. A lady named Betty. Betty.

4 MR. GIUFFRA: But you signed the letter, sir,  
5 correct?

6 THE WITNESS: No, sir, I didn't.

7 MR. COLE: If I could continue, Mr. Giuffra,  
8 then you can take --

9 THE WITNESS: But that's not unusual. It was  
10 signed with my approval, my authority.

11 MR. GIUFFRA: Well, let me ask you --

12 THE WITNESS: I have no doubt -- I told you I  
13 would go in at 2:00, 3:00 o'clock and I would  
14 dictate fifty, sixty or a hundred of these. She  
15 would type them, and unless they were very, very  
16 serious critical area of matters of, of high-level  
17 regulatory concerns, she, she signed them and, and  
18 mailed them. And I might review a copy a week or a  
19 month later or I might not ever.

20 BY MR. COLE:

21 Q. So your testimony, Mr. Jackson, is that you dictated this  
22 letter perhaps with a number of other letters and someone else



1 transcribed or typed the letter?

2 A. That's correct.

3 Q. Did you direct -- a great deal has been made of the fact  
4 that this is on Bank Department stationery. Did you direct  
5 that it be placed on Bank Department --

6 A. I made no, no distinction as to what stationery be used.  
7 And, and there was a supply of personal stationery, a supply  
8 of Bank Department stationery -- and this lady was also  
9 working far in excess of what she was getting paid for in  
10 doing these letters.

11 We had gotten beyond the Smith-Corona portables into,  
12 actually, a PC word processor. We -- it feeds the paper  
13 through and my guess is that she never gave any thought to it.  
14 It was going to a bank from the Bank Commissioner and had a  
15 bank document in it.

16 Had it been going to a business or had a personal check  
17 in it or something, there was no question that she would have  
18 used my personal stationery and she would not have done it,  
19 would not have done it during business hours. She would have  
20 done it after business hours or on the weekend and then bill  
21 me personally for her time.

22 Q. And Mr. Campbell, the gentleman to whom this letter was

1 addressed, is someone who was well known to you at the time  
2 and knew you well?

3 A. I had known him, when this was done, 20 or 25 years.

4 Q. So the fact that this letter was on Arkansas State Bank  
5 Department would not have told Mr. Campbell anything that he  
6 didn't already know about your position?

7 A. Anyone who knows Mr. Campbell would know that if, if that  
8 had not met his approval, it would have been trashed or torn  
9 up and mixed with bovine feces and put in an envelope and  
10 mailed back to me. Mr. Campbell is a very, very self-reliant,  
11 hardheaded young man, firm in his convictions.

12 Q. And notwithstanding the language in the letter that  
13 Mr. Giuffra brought to your attention about this loan being  
14 past due and removed from the past-due list in the last  
15 paragraph, the extension agreement essentially was a rollover  
16 of the existing?

17 A. That is correct.

18 Q. Is that correct?

19 A. That is correct.

20 Q. So what you were doing was forwarding a document that  
21 just rolled over a loan for another period?

22 A. A document I received in church as an accommodation for a



1 long-time friend. And if he had been a John Deere dealer, I  
2 would have probably done the same thing. But since it was a  
3 bank, I certainly did not -- I didn't give a second thought to  
4 it.

5 Q. Before Mr. Giuffra goes on to his next line of  
6 questioning, I, I do have one question about the original  
7 making of the loan that's referenced in that letter, the loan  
8 by Security Bank of Paragould. And Mr. Giuffra showed you the  
9 application. The loan was made to Governor, then  
10 Governor Clinton in Little Rock; is that correct?

11 A. That's correct.

12 Q. And it was an unsecured loan, so it was not secured by  
13 property in the Paragould area?

14 A. That's correct.

15 Q. Did this, the granting of this loan by Security Bank of  
16 Paragould raise any issue of being an out-of-territory loan?

17 A. No, it didn't.

18 Q. And why was that?

19 A. Oh, the Security Bank was a \$75 million bank with  
20 \$10 million in capital. It was inconsequential.

21 Q. So even though, as a matter of fact, this loan was as  
22 much out of territory for Security Bank as the prior loan had

---

1 been to Bank of Kingston, the difference in the size of the  
2 institutions and the loan or underwriting standards are what  
3 made it --

4 A. That is correct.

5 Q. -- appropriate in this case while it arguably was  
6 inappropriate in a prior case?

7 A. That is correct. You know, Chase Bank makes loan in  
8 Hong Kong. They're not considered out of territory. If this  
9 bank had made a loan in Hong Kong, it would have been  
10 considered out of territory.

11 You know, there is one interesting aspect of this that,  
12 that I have never, I have never heard anyone except the press  
13 raise a question on. If you look at this application and if  
14 you go back and look at the documents that the press has -- I  
15 don't know whether you-all have it or not. I'm sure you do.  
16 Well, I'm not sure that you do. It seems to me that the press  
17 has got more documents and knows more about this and writes  
18 more about this than everybody else put together. But the  
19 Clintons were paying 21 or 22 or 23 percent.

20 Q. That was the interest rate on this loan?

21 A. On this loan, when they got this loan from the Security  
22 Bank. Arkansas interest rate floats at 5 percent above the

1 St. Louis discount rate, so the maximum the bank could charge  
2 them was 13 and a half percent. Then when they got around two  
3 years later to extending it, interest rates had dropped down  
4 so that -- and in the interim it had apparently dropped  
5 because it was 11.5 percent and it had dropped down to 10.5  
6 percent.

7 So as the Federal discount rate, which happened in the  
8 last 30 days, dropped a quarter percent, our maximum legal  
9 rate dropped from 10.25 percent to 10 percent. And so there  
10 are a lot of economic reasons why the Clintons would have gone  
11 somewhere other than staying or attempting to stay with the  
12 Bank of Kingston. Almost a 50-percent savings in their  
13 interest because, by moving the loan.

14 Q. And is that because the Bank of Kingston was a Federal  
15 institution?

16 A. No. It was because the, the courts and the law, the  
17 Constitution says that the interest rate is the St. Louis  
18 Federal Reserve rate plus any surcharges plus 5 percent at the  
19 time of the contract. Well, when the Clintons borrowed the  
20 money over at Kingston, they made the rate, the maximum rate  
21 they could pay either 21 percent or ultimately 23 percent. I  
22 don't know that they ever paid 23 percent, but I do know

1 someone from the press showed me a deal where they were  
2 paying, had paid the bank of Kingston 21 percent.

3 Q. So they were paying at or near the maximum amount  
4 permitted --

5 A. Yes.

6 Q. -- by law?

7 A. Yes.

8 Q. Not a sweetheart deal exactly.

9 A. That's, That's correct. And my feeling, my thought is  
10 that that was, that was definitely true at Security Bank and I  
11 suspect that, that when the loan was made at Kingston that the  
12 rates had not ratcheted up the additional 3-percent surcharge.

13 FURTHER EXAMINATION

14 BY MR. GIUFFRA:

15 Q. You don't know whether the Clintons were making the  
16 interest payments or whether Mr. McDougal was making the  
17 interest payments, do you?

18 A. Only through hearsay.

19 Q. Well, do you know for a fact whether the Governor made  
20 the interest payments?

21 A. I have been told by reliable sources that

22 Mr. and Mrs. Clinton made interest payments on several

1 occasions.

2 Q. But did Mr. McDougal also make interest payments?

3 A. Mr. McDougal, and I told you awhile ago and I asked your,  
4 answered your question about, you said how much discussion or,  
5 did I have with Mr. McDougal and I said, you know, five  
6 minutes after the board meeting and one telephone call. The  
7 one telephone call is referenced in that letter to  
8 Mr. Campbell when Mr. McDougal called me and said I'm going to  
9 be making a very substantial reduction in the Whitewater loan  
10 or in the resort development loan that we have, that the  
11 Clintons have or that our deal has at Security Bank.

12 And I said, fine, send the, the proceeds directly to the  
13 bank. And told him to send them to the attention of Charles  
14 Campbell who was, at that time, the senior credit officer.

15 Q. In fact, on November 8th, 1985, Mr. McDougal sent a  
16 letter to Mr. Campbell in which he enclosed a check for  
17 \$7,322.42 --

18 A. I thought it was more than 4,000.

19 Q. No. \$7,322.42 from principal of 5,000 and interest of  
20 \$3,322.42? So Mr. McDougal did make a substantial payment  
21 of --

22 A. That does, I do not contradict that. I just --

---

1 Q. And, in fact, sir, we have a check written on the account  
2 of Whitewater Development Corporation to the Security Bank of  
3 Paragould in the amount of 7,300 --

4 A. I saw that on TV.

5 Q. Yeah. There it is.

6 A. I saw that one on, on -- Lisa Meyers held this one up so  
7 that all America could see it.

8 Q. So Mr. McDougal -- so when you talk about what the  
9 interest rate was on this loan, Mr. McDougal was paying the  
10 money, was paying that interest for the Clintons.

11 A. Well, I wouldn't, I would not say that from the documents  
12 I see. I would say that Whitewater Development Corporation,  
13 which got the benefit of the loan originally, was paying the  
14 principal and interest, which is what it should have been  
15 doing.

16 Q. And this, and this loan was paid from an account at  
17 Madison Guaranty Savings & Loan which Mr. McDougal ran,  
18 correct?

19 A. Yes.

20 Q. And you don't know whether that account was, for example,  
21 overdrawn at the time?

22 A. I have no -- I was never in Madison Guaranty Savings &



1 Loan.

2 Q. Okay. So you don't know whether, how Mr. McDougal got  
3 the \$7,322.42 to pay this particular loan at the Security Bank  
4 of Paragould?

5 A. No, I do not.

6 Q. Okay. Just several more questions on this question of  
7 the stationery and then maybe we could take a break. Now, you  
8 testified that your secretary had available to her personal  
9 stationery and Banking Department stationery, correct?

10 A. Correct.

11 Q. And for the, unless you advised her that she should use  
12 personal stationery or if it was obviously a personal matter  
13 on behalf of yourself, such as a letter to a friend, wouldn't  
14 she presumptively use the Banking Department's stationery?

15 A. Yes. And she --

16 Q. And so that --

17 A. Let me, let me say this. She is a, was a very, very  
18 astute lady, a stickler for ethics and the do-right rules and  
19 she used her total discretion on choosing what ought to be on  
20 what, on which stationery.

21 Q. When you --

22 A. I seldom ever -- on rare occasion I might clearly

1 distinguish if it was something that I just didn't want  
2 someone to have anything from State government in their hands.  
3 I might say, this is a purely personal matter. It should be  
4 done before or after hours, billed to me personally and it  
5 should be on my personal stationery. And that was a rare  
6 thing because I usually just left it up to her good judgment.

7 Q. Okay. But you would agree that this particular letter to  
8 Mr. Campbell, she -- it would be presumptively something she  
9 would write on the official stationery, type on the official  
10 stationery?

11 A. Yes.

12 Q. She -- you didn't tell her that she had to use personal  
13 stationery?

14 A. I don't remember.

15 Q. Okay. How do you know, how do you know for sure that you  
16 did not sign this letter?

17 A. I can tell by the signature.

18 Q. You can tell that this is not your signature?

19 A. Certainly.

20 Q. Okay.

21 A. Sure. Look at this one. I can tell that was

22 Bill Clinton's signature; however, it was probably done with a



1 machine. I didn't have a machine, so I used a secretary.  
 2 Q. You think Governor Clinton's signature on the extension  
 3 agreement was done by a machine?  
 4 A. I don't know.  
 5 Q. So you're just guessing, right?  
 6 A. I'm just guessing.  
 7 Q. Okay.  
 8 A. I do know that they had a signature machine that they  
 9 kept under lock and key over there and I never had the key.  
 10 Q. Okay. Even if you had written this letter to Security  
 11 Bank of Paragould on your personal stationery, was it the  
 12 right thing to do for a, the Banking Commissioner to ask a  
 13 bank that the Bank Commissioner was responsible for regulating  
 14 to grant an extension of a loan for the Governor?  
 15 A. If it met with the bank's approval, yes.  
 16 Q. Was that standard procedure while you were Banking  
 17 Commissioner for you to be writing letters asking banks --  
 18 THE WITNESS: Let me do it. There is a trick  
 19 to it.  
 20 BY MR. GIUFFRA:  
 21 Q. -- banks that you were regulating to, to extend loans  
 22 for?

1 A. Is it something that I did every day or every week, the  
 2 answer is no. Were there other occasions in which I became  
 3 involved with whether or not a bank renewed a loan or not to a  
 4 particular borrower, the answer is yes.  
 5 Q. You identified four occasions, perhaps five?  
 6 A. I said three or four or five. Three or four or five.  
 7 Q. In the four, four years that you were Bank --  
 8 A. That's correct. Four and a half years.  
 9 Q. Four and a half years. So maybe one a year?  
 10 A. That's correct. Now, given the fact that I was Bank  
 11 Commissioner, that I was asked to do this by the senior credit  
 12 officer of this bank, he got his charter from the State Bank  
 13 Department and I was the Commissioner for it, I see absolutely  
 14 no, nothing wrong with that.  
 15 Q. Why, why didn't the bank just contact either the Governor  
 16 or Mrs. Clinton and ask them to sign the extension agreement?  
 17 MR. COLE: I thought you testified that they  
 18 had, Mr. Jackson. They had sent --  
 19 THE WITNESS: I think that I did testify that  
 20 when Mr. Campbell handed that to me in church, that  
 21 he prefaced handing it to me with: A few days ago  
 22 when I sent an extension agreement to the

1 Governor -- and I haven't received it back.

2 MR. COLE: And, in fact, Mr. Jackson, what he  
3 was asking you to do was get a signature on  
4 something that he had already decided to do --

5 THE WITNESS: That's correct.

6 MR. COLE: -- which is extend the note?

7 THE WITNESS: That is correct. He prepared the  
8 document, brought it to church with him and handed  
9 it to me just as the church service starts.

10 MR. COLE: So you were essentially a courier  
11 for him?

12 THE WITNESS: That's correct. I was  
13 accommodating a long-time friend and these, this  
14 bank paid hundreds of thousands of dollars in fees  
15 to the Bank Department.

16 BY MR. GIUFFRA:

17 Q. No. But isn't it also true that the letter says on  
18 Paragraph 4: After making the appropriate approval of the  
19 extension agreement. Do you see that?

20 A. That's him making the approval. It isn't me.

21 Q. Yes. But this indicates that the approval had not yet  
22 been made of the extension agreement?

1 A. Well, that's a matter of semantics and it's a matter of  
2 dictating letters seventy-five, a hundred at a time at 3:00,  
3 4:00 a.m. in the morning, one right after another.

4 MR. COLE: But it is clear, is it not,  
5 Mr. Jackson, that he would have had no need for the  
6 signature if he did not wish to --

7 THE WITNESS: If he hadn't given me the  
8 extension agreement, I would never have had it. The  
9 letter would never have been written. And it's  
10 clear because I knew Mr. Campbell quite well. I had  
11 known him 25 years. It says: I trust this meets  
12 with your approval.

13 MR. COLE: I understand, sir, but that's not my  
14 point. My point is that he asked you to get a  
15 signature.

16 THE WITNESS: That's correct.

17 MR. COLE: And he would only have needed a  
18 signature if he wished to do extend the loan?

19 THE WITNESS: That is correct. If he had not  
20 wished to, if he was going to say, we've had this  
21 loan around here for three or four years now and  
22 they're paying only 10-percent principal and

1 interest rates are coming down and local loans, the  
2 demand is going up, or for whatever reason, if he  
3 hadn't wanted to have done it, it would never have  
4 existed?

5 MR. COLE: In other words, if he had wished to  
6 call the loan rather than extend the loan, he  
7 wouldn't have been sending an extension agreement --

8 THE WITNESS: That's correct.

9 MR. COLE: -- for the Governor to sign?

10 THE WITNESS: That is correct.

11 BY MR. GIUFFRA:

12 Q. Do you know whether this loan was current as of November  
13 1, 1985?

14 A. It is my opinion that, from a legal standpoint, it was  
15 current.

16 Q. Why do you believe it was current as of November 1, 1985?

17 A. What I've been told by the press and by those who have  
18 examined the records.

19 Q. What specifically have you been told that makes you  
20 believe this loan was current?

21 A. That the interest and a 10-percent reduction in principal  
22 had already been made.

1 Q. By Mr. McDougal?

2 A. They didn't say by whom. I didn't say by whom, and I  
3 don't know that anybody ever told me.

4 Q. But, Mr. Jackson, the letter that was sent by  
5 Mr. McDougal was dated November 8, 1985 and the check was  
6 dated November 7, 1985 and your letter was dated November 1st,  
7 1985. That would make me, that would lead a reasonable person  
8 to believe that the loan was past due as of the time --

9 A. Only if there is a regulatory or a statutory requirement  
10 that that extension agreement be signed for a loan to be  
11 current, and there was no such regulatory or statutory  
12 requirement.

13 MR. COLE: In other words --

14 THE WITNESS: The loan was not in default.

15 MR. COLE: -- the payments had been made on the  
16 loan?

17 THE WITNESS: That is correct.

18 MR. COLE: But you needed the extension to keep  
19 the loan --

20 THE WITNESS: To be within the bank's policy,  
21 local policy. They could have had a board meeting  
22 that afternoon, Sunday afternoon, and said, we



1           hereby rescind the policy requiring written  
2           extension agreements.

3           I probably had a hundred meetings with bank  
4           boards the four and a half years, a hundred  
5           different banks over this issue of getting written  
6           extension agreements.

7 BY MR. GIUFFRA:

8 Q. Well, isn't that because, isn't that because what is  
9 sometimes an imprudent banking practice is that banks will  
10 take a loan that is not performing and extend it, correct?

11 A. You would make a great country banker. That is correct.

12 Q. And that is, that is the way that banks, people --

13 A. To insure that someone didn't do something untowards or  
14 unethical or imprudent for a brother-in-law or a brother or a  
15 father-in-law or a son or a daughter or themselves.

16 Q. Or a governor?

17 A. Or a governor. It's a good practice to get written  
18 documentation defining how much has been extended and the  
19 terms under which it's been extended.

20 Q. Because if people can extend a non-performing loan, okay,  
21 you can stretch out the payments, okay, you can conceal the  
22 fact that a loan is non-performing?

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1           MR. COLE: Was this a non-performing loan?

2           THE WITNESS: No, it was not.

3           MR. COLE: Well, Mr., Mr. Giuffra's question to  
4           you has an assumption in it that a loan --

5           THE WITNESS: Those are words that he spoke and  
6           put in my mouth. I didn't say them.

7 BY MR. GIUFFRA:

8 Q. You, you, you --

9 A. At that time, the prevailing practice in the state was to  
10 take a rubber stamp, take a rubber stamp like that and then  
11 stamp the, the back of the note and the officer put in the  
12 next payment date. That was the prevailing practice in  
13 Arkansas. You want to know what the standard in the industry  
14 is, which U.S. district judges and U.S. court of appeals say  
15 has the effect of law, it becomes common law if it's practiced  
16 long enough.

17       The standard in the industry was you just stamped it,  
18 write in the next due date and gone on. And if Mr. Campbell  
19 had done that, there would never have been an extension  
20 agreement prepared by him, brought to church and handed to me  
21 and him asking me as an accommodation to him, not as an  
22 accommodation to Governor Clinton, as an accommodation to him



1 to get this signed and get it back to him.

2 Q. But, sir, if Mr. McDougal had not sent the check for  
3 \$7,322.42, okay, 5,000 for principal reduction and \$2,322.42  
4 on interest, might this loan have been non-performing?

5 A. At some point in time it might have become  
6 non-performing.

7 Q. So you were operating on the assumption that Mr. McDougal  
8 would be forwarding a check in the amount of \$7,322.42 when  
9 you sent --

10 A. He told, he told me that on the phone, but I believe I  
11 stated a lesser amount to Mr. Campbell when I talked to him.  
12 I had been promised a lot of times that the check is in the  
13 mail and I'm here from the government to help you and, of  
14 course, I'll respect you in the morning.

15 Q. But, sir, but, sir, in the letter that you sent to  
16 Mr. Campbell, you discuss the interest payment, which is  
17 \$2,322.42, correct, which was the amount the interest was  
18 reduced, and then you say 4 or 5,000 principal reduction. So  
19 you were, what your testimony is, is that you put a \$1,000  
20 less on the principal reduction just because you were trying  
21 to be safe about it?

22 A. Yeah. I just wasn't for sure.

---

1 Q. So you didn't know whether Mr., Mr. McDougal was going to  
2 be good on the, on the money that was do on this loan, right?

3 A. I wasn't positive about it.

4 Q. Why were you not positive?

5 A. Just experience in banking.

6 Q. Well, because didn't you know as a fact, sir, as of  
7 November 1, 1985, wasn't it common knowledge in banking  
8 circles in Arkansas that the Madison Guaranty Savings & Loan  
9 Association was in trouble?

10 A. No, I don't know that I would say that.

11 Q. Well, you knew, for example, that back in 1983 Madison  
12 Bank & Trust which was also, had entered into a  
13 cease-and-desist order, correct?

14 A. You're talking about the bank?

15 Q. Yeah, the bank.

16 A. Yes, yes.

17 Q. Okay. And so, and your testimony is you didn't know  
18 anything about the financial condition of the --

19 A. No, I didn't.

20 Q. -- the S&L at all?

21 A. No, I didn't.

22 Q. But you still had some question in your mind as to

1 whether Mr. McDougal would be good for the \$7,322.42 that was  
2 due on this loan?  
3 A. Mr. McDougal had a political background and a trading  
4 background that was known in the coffee shops, not by me  
5 personally. And with 25 years' banking experience --  
6 Q. What kind of a reputation did he have exactly?  
7 A. He, he came -- I said he had a political background. He  
8 had worked for Senator Bill Fulbright and he had, he had  
9 traded some, some properties around --  
10 Q. Real estate developments that he was involved in?  
11 A. Real estate deals around. I don't know what or where,  
12 but I had just heard that, you know, that since he was not, no  
13 longer an employee of the State or of the Federal government,  
14 that he was devoting himself, his attention to these things.  
15 And at that time, that loan looked, that whole thing today in  
16 retrospect looks absurdly ridiculous, but the fact is, all  
17 over the Ozarks, all the way from, from --  
18 Q. Why does the loan look --  
19 A. Missouri to --  
20 Q. But, sir, specifically --  
21 A. -- to the Louisiana gulf, you had those kind of  
22 developments occurring.

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1 Q. Why does the loan today look absurdly ridiculous to you?  
2 A. The, the Clintons wound up having to pay major portions  
3 of the loan from funds that she made either practicing law or  
4 he made at \$10,000 a year as governor.  
5 Q. Well, he made more than \$10,000 a year as governor.  
6 A. Not when he was first elected.  
7 Q. Back in this period of time --  
8 A. I think even at that period of time it was still 10,000.  
9 Q. \$10,000. How do you know the extent to which the  
10 Clintons used their personal funds to invest in Whitewater  
11 Development?  
12 A. Just what I've heard --  
13 Q. So you're speculating?  
14 A. -- on C-Span.  
15 Q. You're speculating from news reports, right?  
16 A. News reports. Yeah, I don't -- they've never told me.  
17 Q. Why don't we take a --  
18 A. I have read. I have read their quotes and I've heard  
19 quotes from what I believe to be people of integrity in the  
20 news media where they said they had paid major portions of  
21 their ill-advised venture.  
22 Q. Why don't we take a break right here.

1 THE VIDEOGRAPHER: At 3:52.

2 (A recess was held and proceedings resumed.)

3 THE VIDEOGRAPHER: We're back on the record.

4 This is the second videotape in the deposition of

5 Mr. Marlin Jackson.

6 BY MR. GIUFFRA:

7 Q. Now, Mr. Jackson, it's your testimony that you did not  
8 speak -- strike that. Did you speak with Mrs. Clinton about  
9 the extension of the loan?

10 A. You mean like person to person?

11 Q. Yeah. On the telephone.

12 A. I don't recall.

13 Q. Okay. And did you call, you didn't speak to  
14 Governor Clinton about this, did you?

15 A. No.

16 Q. Now, did there come a time --

17 A. Now, let me, let me, let me -- you're, we're talking  
18 about something that happened 12, 13, 14 years ago. Let me  
19 clarify this: If Mrs. Clinton testifies that I spoke to her  
20 about that or if Mr. Clinton says that I did, then I would not  
21 contradict them.

22 Q. I understand.

1 A. I'm telling you as honestly as I can I do not recall ever  
2 having spoken to either one of them. I think I, I recall  
3 attaching a little note to that extension agreement that said,  
4 please, obtain Bill's signature and return this to me and I'll  
5 see to it that it's put back in proper channels.

6 Q. Now, did there come a time following your involvement  
7 with the extension agreement that you contacted Mrs. Clinton  
8 with regard to this loan that Governor Clinton had outstanding  
9 with the Security Bank of Paragould?

10 A. It was a joint loan. They both, the both had signed the  
11 loan.

12 Q. Did you ever, did you contact her by telephone about the  
13 loan at any point?

14 A. I don't recall it.

15 Q. Okay. Let me show you a message slip that's dated  
16 DKSJ 936. It says to Hillary, HRC -- that must be  
17 Hillary Rodham Clinton -- this document has been produced by  
18 Mr. Kendall, who is the Clintons' lawyer, and it's from  
19 Marlin Jackson, Bank Commissioner. Was your telephone number,  
20 back in 1987, 371-1117?

21 A. I don't have, I don't have the slightest idea what it  
22 was.



- 1 Q. Okay.
- 2 A. I'm not, I'm not laughing at you, sir. I just don't
- 3 recall.
- 4 Q. Okay. Do you recall --
- 5 A. That does not -- if that's what that says, that
- 6 predictably was the, the number. I'm not saying that it was
- 7 not. I'm just saying that I don't recall what -- I've had a
- 8 dozen numbers in the interim.
- 9 Q. I understand. I have, I have the same problem, sir.
- 10 A. So I don't recall what the number was.
- 11 Q. Do you recall, do you recall calling Mrs. Clinton about
- 12 this loan sometime in March 1987?
- 13 A. I do not recall calling her.
- 14 Q. All right. Let me show you a message slip. Have you
- 15 ever seen that document before?
- 16 A. No, I have never seen that document.
- 17 Q. Well, this note indicates that you left Mr. Fisher's name
- 18 and a telephone number for Mrs. Clinton, correct?
- 19 A. Yes.
- 20 Q. Do you --
- 21 A. That's what the note says. I hadn't observed it until
- 22 you pointed it out.

- 1 Q. Do you recall doing that, sir, leaving Mr. Fisher's name
- 2 and telephone number for Mrs. Clinton?
- 3 A. No, I don't recall it. I don't recall any, anything
- 4 about it. I'm not saying I didn't. Please understand that.
- 5 Q. I understand. Who was Mr. Fisher?
- 6 A. He was, he was the president of the bank.
- 7 Q. President of the bank that you were the majority owner
- 8 in?
- 9 A. He was the president of the bank that I was majority
- 10 owner of until I became Bank Commissioner and while I was Bank
- 11 Commissioner, a trust set up held legal title to -- so it's,
- 12 it is not an accurate characterization to say that I owned
- 13 controlling interest under, not even -- it doesn't take an
- 14 expert in law to know, understand that a trust is a totally
- 15 separate entity over which I had no control whatsoever.
- 16 Q. Okay. Now --
- 17 A. And Mr. Fisher was one of the trustees.
- 18 Q. Let me show you another document. This was dated
- 19 March 5, 1987, which would be three days after this message
- 20 was left leaving Mr. Fisher's name. And this is a letter
- 21 written on the stationery of the Security Bank of Paragould to
- 22 Mrs. Clinton by Mr. Fisher.



1 Dear Hillary, enclosed is a new note in the amount of  
2 \$14,117.59. This represents the principal and interest on the  
3 current note. Upon receipt of the executed note, we will pay  
4 the present indebtedness and return the note paid to you. It  
5 is my understanding that we will be receiving payment in the  
6 amount of \$285.13. At present interest rates, this will  
7 require the indebtedness in slightly over five years.

8 Then it goes on to discuss the administerial  
9 circumstances surrounding completing the financial statement.  
10 And then attached to this document -- oh, that's all. There  
11 was nothing attached.

12 Did you ever see this letter, sir?

13 A. No. Let me look at it.

14 Q. Okay. Take your time.

15 A. But the answer is -- and I heard you read it. The answer  
16 is no.

17 Q. I'd like to show you another letter which is dated March  
18 27, 1987 which bears Bates number DKS N 4085. This is a letter  
19 that we obtained from Mr. Kendall, who is the Clintons'  
20 personal lawyer. This letter is written, again, on State Bank  
21 Department stationery, Marlin D. Jackson, Commissioner. It's  
22 a letter to Mrs. Clinton, Rose Law Firm, and it's, the re is

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1 notes, Security Bank, Paragould, Arkansas. And the letter is  
2 signed by you with the name Bank Commissioner in your title.  
3 And I'll read the letter into the record. It says, quote:

4 I recall recently discussing the note that you and Bill  
5 have at Security Bank in Paragould. Last fall the interest  
6 was paid on your note through September 30, 1986. In order to  
7 meet banking regulations, it is necessary for you and Bill to  
8 sign the enclosed extension agreement at the bottom of the  
9 page on signature lines marked with a green "X" and return it  
10 to the bank. Because the interest has already been paid, it  
11 is not necessary for you to send in a check. Simply sign the  
12 extension agreement and forward it to the bank. By signing  
13 the extension agreement your loan will be considered current  
14 by bank examiners and will next be due November 20, 1987. The  
15 new interest rate is 8 percent, which is an improvement over  
16 past years. If you have any questions concerning this, do not  
17 hesitate to contact me or Bill Fisher at 239-9571.

18 And it says, for your convenience, I am enclosing a  
19 stamped, self-addressed envelope. Warmest personal regards,  
20 sincerely, Marlin Jackson. Do you recall writing this letter,  
21 sir?

22 A. No, I don't recall writing it. But the letter speaks for

1   itself.

2   Q.   Is that your signature?

3   A.   No, it isn't. But it was signed, no doubt, by someone  
4   authorized by me. The fact that I did not sign it, it doesn't  
5   mean that I didn't dictate it and that it was not my letter.

6   Q.   Does, does the letter indicate to you that you were  
7   speaking with Mrs. Clinton about this loan?

8   A.   One could conclude that, yes.

9   Q.   Do you recall speaking to Mrs. Clinton about this loan?

10   A.   No, I do not.

11   Q.   Do you recall speaking to Mr. Fisher about this loan?

12   A.   No, I don't recall speaking with Bill about it.

13   Q.   Do you, do you know -- I mean, it would appear from the  
14   correspondence that you were sort of acting as the Clintons'  
15   banker with regard to this loan at Security Bank of Paragould.

16   A.   I would not typify that -- I would say that it would  
17   appear that I was accommodating people that I had worked with  
18   15 years and that I had known 30 or 40 years rather than  
19   people that I vaguely knew and I had never worked with in any  
20   capacity other than being as Bank Commissioner which, you  
21   know, was no great shakes.

22       We had tellers in our bank who made better salaries than

---

1   the Bank Commissioner did. It's not like being appointed  
2   chairman of the Federal Reserve Board. So, no, I don't  
3   consider that I was serving as Mrs. Clinton's banker or  
4   Bill Clinton's banker. I considered that I was attempting in  
5   good faith to do what Arkansas friends do among Arkansas  
6   friends and that was to help my friends.

7   Q.   Is it appropriate for the Bank Commissioner to be sending  
8   letters on State Bank Department stationery?

9       MR. COLE: Mr. Jackson, you might want to  
10       finish your last sentence. These things are often  
11       excerpted in short sound bites for TV. When you say  
12       help your friends, the friends you were talking  
13       about were not the Clintons.

14       THE WITNESS: That's correct. Help my friends  
15       with whom I had been in close association with for  
16       15 years and, in that particular bank, and whom I  
17       had known for 40 years --

18   BY MR. GIUFFRA:

19   Q.   But that would --

20   A.   -- as personal friends.

21   Q.   That would indicate --

22   A.   And I, and to contrast that to the Clintons, I, I hardly

- 1 knew either one of them.
- 2 Q. The letters, though, were written at the request of your  
3 friends, correct?
- 4 A. Yes.
- 5 Q. At the bank? Mr. Fisher, correct?
- 6 A. That's correct.
- 7 Q. So did Mr. Fisher indicate to you he was having  
8 difficulty obtaining --
- 9 A. I do not recall.
- 10 Q. Let me finish the question. Did he indicate to you he  
11 needed your assistance in order to have Governor Clinton sign  
12 the appropriate documentation in connection with a loan that  
13 he had outstanding with the Security Bank of Paragould?
- 14 A. I do not recall him so indicating that.
- 15 Q. So do you, do you have any knowledge or recollection as  
16 you sit here today as to why you were the person who was  
17 sending extension agreements to the Clintons on two occasions  
18 with regard to this note?
- 19 A. The people in Paragould, a hundred and fifty mile away,  
20 erroneously thought that I saw the Clintons every day. And so  
21 they would ask me to do things like that. People in south  
22 Arkansas erroneously assumed that I saw the Governor or

- 1 Mrs. Clinton every day.
- 2 Q. Now, I think you indicated that during the time you were  
3 Bank Commissioner you can recall getting personally involved  
4 with regard to just a loan of a particular borrower at a bank  
5 on maybe five occasions over the four-plus years --
- 6 A. Four or five. Well, to the same extent, I got involved  
7 in a lot of loans as Bank Commissioner, but not where the  
8 borrower had any knowledge of my being involved in any way.
- 9 Q. But at least, so that would mean that two of the five  
10 occasions involved loans, a loan to the Clintons, correct?
- 11 A. That is correct.
- 12 Q. Forty percent of the time.
- 13 A. But to extrapolate that and to say that that is a result  
14 of my friendship with Clinton is a blind leap of faith into  
15 nothingness because it was not true.
- 16 Q. But you --
- 17 A. The truth was I was attempting to accommodate my  
18 friends --
- 19 Q. At the bank --
- 20 A. -- at the bank. And it was a very appropriate thing for  
21 the Bank Commissioner to do.
- 22 Q. Well, the presumption would be that for some reason the



1 bank that had the loan that was, the Clintons were obligated  
2 to pay, were somehow having trouble getting the Clintons to  
3 provide the appropriate documentation and, therefore, had to  
4 go to the Banking Commissioner to get the documentation  
5 signed.

6 A. I have talked to hundreds of people who have deposed all  
7 the people involved in this transaction at that bank, and no  
8 one has ever said that the bank was having any kind of trouble  
9 with the Clintons about anything. I didn't, I just don't  
10 agree with your assumption. Your assumption is that the bank  
11 was having trouble and thus they asked me to help.

12 That isn't what happened at all. I lived in the  
13 community. Mr. Fisher lived maybe a hundred yards from me.  
14 In one instance, Mr. Campbell handed me a deal at church. I  
15 don't recall this instance with Mr. Fisher at all. I just  
16 don't remember it. I'm not saying it didn't happen. I'm just  
17 saying I do not remember.

18 Q. Let me show you another document. This is, bears Bates  
19 Number DKRT 400195. It's a letter written on First State Bank  
20 & Trust, Conway, Arkansas, Marlin D. Jackson, Chairman and  
21 Chief Executive Officer. It's a letter you wrote to  
22 Mrs. Clinton. It says:

1 Dear Hillary, I am enclosing a past-due notice on your  
2 and Governor Bill's note at Security Bank in Paragould. The  
3 principal is \$12,444.78 and interest accrued to April 15, 1988  
4 is \$665 for a total principal and interest due of \$13,109.81.  
5 Please, sign the enclosed extension agreement in the lower  
6 right-hand column and obtain Bill's signature on same. Also  
7 please, enclose your check for \$665.03 for the interest. You  
8 may pay any amount you wish on the principal; however, a  
9 principal reduction is not required. Last year I believe you  
10 paid \$2,000. Principal reductions may be made at your  
11 convenience without penalty. Time is of the essence in this  
12 matter. By statute, Security Bank must have an examination  
13 that begins prior to the end of the month, of this month.  
14 There is statutory provision for State banks to be examined no  
15 less frequently than once each 24-month period.

16 And it says, I am enclosing a self-addressed,  
17 postage-paid envelope for your convenience in forwarding these  
18 needed documents directly to Security Bank. It signs off,  
19 Happy Easter. Do you recall sending this letter to  
20 Mrs. Clinton?

21 A. I think, yeah, I think I do recall sending that one.

22 Q. Now, is that your signature at the bottom?



- 1 A. Yes. That one's my signature.
- 2 Q. Okay. And why did you send this letter to Mrs. Clinton?
- 3 A. Apparently I was asked to do so by the bank. I still
- 4 lived in Paragould. Bill Fisher was still the president of
- 5 the bank, remained the president until a year or year and a
- 6 half ago.
- 7 Q. So once again, you were, you were, in effect, being the
- 8 go-between between the Bank of Paragould and the Clintons with
- 9 regard to the extension of this loan?
- 10 A. I was attempting to accommodate the bank; that's correct.
- 11 I might, I might -- I might point out, as a matter of fact,
- 12 two things. One, I asked if it would be possible for the
- 13 staff of the committee to forward these documents so that I
- 14 might review them. Had that happened, it might have refreshed
- 15 my memory. I might could have gone either to the bank or the
- 16 Bank Department and done some research there. But not knowing
- 17 what to look for has significantly disadvantaged me in
- 18 attempting to candidly answer your questions.
- 19 Q. Well, this is the procedure we follow --
- 20 A. Now, having said that, the other thing -- pardon?
- 21 Q. This is the procedure we follow with all witnesses
- 22 because these documents are confidential.

- 1 A. Well, it's kind of like, it's kind of like playing cards
- 2 where all my cards are all dealt face up and yours are all
- 3 under the table.
- 4 Q. Well, you have as much time as you want to look at the
- 5 document. I'm just asking whether you recollect seeing the
- 6 document.
- 7 A. Not only do I -- I don't know that I recollect seeing the
- 8 document so much as I recollect that, sending this to, or even
- 9 though I know longer was involved in State government, which
- 10 again bears out the fact that I wasn't doing any of this to
- 11 accommodate Hillary Clinton or Bill Clinton. I was doing this
- 12 to accommodate the bank, my friends at the bank, people that I
- 13 had worked -- might also point out that the loan continued to
- 14 perform here.
- 15 The loan's down from whatever it was to \$12,444
- 16 principal, and it is my understanding from the investigators
- 17 of the special prosecutor that a few weeks or months after
- 18 this that Mrs. Clinton paid the entire balance of the loan
- 19 off.
- 20 Q. Do you recall speaking with Mrs. Clinton about this loan
- 21 on any other occasions?
- 22 A. No.

1 Q. Now, do you --

2 A. Now, understand if Mrs. Clinton or if Bill Fisher says I  
3 talked to Marlin Jackson about this and this is what he said,  
4 I would not contradict them.

5 Q. Now --

6 A. I have no reason to think that they would lie about it  
7 any more than I have any reason to lie about it myself.

8 Q. Now, do you Mr. William Lyon, correct?

9 A. Yes. I know William Cain Lyon.

10 Q. And he served on the bank board during the time that you  
11 were Bank Commissioner, correct?

12 A. Yes. Very small part of the time. Very, very short  
13 period of time.

14 Q. And did there come a time when Mr. Lyon resigned from the  
15 bank board?

16 A. Yes, I believe he did.

17 Q. Do you know anything about the circumstances surrounding  
18 Mr. Lyon's resignation from the bank board?

19 A. Mr. Lyon had a brewery, and I don't remember the date or  
20 the time or the circumstances, but sometime prior to his  
21 actual resignation, I believe that he mentioned to me that he  
22 might resign from the bank board and that, for me not to take

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1 it personal, that he would be a lot better off if he were  
2 serving on the ABC board, Alcohol Beverage Control Board so  
3 that maybe he could get a permit. His brewery was in front,  
4 immediately in front of one of Little Rock -- at that time,  
5 one of Little Rock's better cafe or restaurant -- Fisherman's  
6 Wharf.

7 MR. PRYOR: Cajun's Wharf?

8 THE WITNESS: Cajun's Wharf. And he had hoped  
9 to induce the ABC to let him dispense his wine along  
10 with snacks and food and stuff -- his beer, and  
11 apparently had been unable to do so. I don't know.  
12 I didn't get into the whys and wherefores.

13 BY MR. GIUFFRA:

14 Q. Did Mr. Lyon indicate Mr. McDougal had said anything to  
15 Mr. Lyons (sic) with regard to any, any matters that might be  
16 coming before Mr. Lyon as a member of the S&L board?

17 A. Mr. Lyon could not have served on the S&L board. There  
18 is a statutory prohibition in Arkansas that prohibits an  
19 officer, director or shareholder of a commercial bank from  
20 serving on the State savings & loan board.

21 Q. But did Mr. Lyon say anything to you about --

22 A. And he never said anything to me about --

- 1 Q. -- any conversation he might have had with Mr. McDougal?  
2 A. About anything, no.  
3 Q. Okay. Are you aware of his testimony --  
4 A. Yes.  
5 Q. -- before the Senate Banking Committee?  
6 A. Yeah.  
7 Q. And you don't have any testimony yourself to offer with  
8 regard to that matter?  
9 A. No.  
10 Q. The circumstances surrounding his resignation from the  
11 bank board.  
12 A. No, I -- I have, only thing I would say is that  
13 William Cain Lyon is a, is a free spirit. By that, he is  
14 unconventional. But I, and all of my dealings with him  
15 through thick and then and through good times and prosperity  
16 and through times of adversity, he never, ever lied or  
17 misrepresented anything to me. He never ever mentioned going  
18 on savings and loan board to me or he never mentioned having  
19 any discussions with Mr. McDougal about anything to me that I  
20 recall.  
21 MR. COLE: And why could Mr. Lyon not have  
22 served on the State savings and loan board?
- 

- 1 THE WITNESS: He was a principal shareholder  
2 and chief executive officer of what I knew as the  
3 Bank of New Edinburg, New Edinburg, Arkansas. And  
4 someone will have to -- that's in Clark County. If  
5 you go to Fordyce and go southwest about 16 miles,  
6 you'll be there.  
7 What's, do you know the name of the little town  
8 they moved to -- other than New Edinburg? That's a  
9 pretty high-brow sounding name for the forest, the  
10 woods. I mean, it's barely a one-lane road into the  
11 town.  
12 MR. COLE: But because of that position he  
13 would not have been able --  
14 THE WITNESS: Could not do it.  
15 MR. COLE: -- to serve on the State savings and  
16 loan board?  
17 THE WITNESS: That is correct.  
18 BY MR. GIUFFRA:  
19 Q. Okay. Mr. Jackson, we're getting near the end. During  
20 the 1992 Presidential campaign, did you speak with any members  
21 of the campaign about your tenure as Banking Commissioner?  
22 MR. COLE: It might also help, just to be as



1 fair as we can for Mr. Jackson, when you say members  
2 of the campaign, he or you may have different ideas  
3 about what that means. Does that include Jim Blair,  
4 for example?

5 MR. GIUFFRA: Yeah, we'll get to that.

6 BY MR. GIUFFRA:

7 Q. Do you recall speaking to Susan Thomases during the  
8 campaign?

9 A. No.

10 Q. Do you recall speaking to Loretta Lynch during the  
11 campaign?

12 A. No.

13 Q. Do you recall speaking with Mr. Blair during the  
14 campaign?

15 A. Yes.

16 Q. What do you recall about any conversations you might have  
17 had with Mr. Blair regarding your tenure as Banking  
18 Commissioner?

19 A. We didn't talk about my tenure as Bank Commissioner. We  
20 talked about an article that appeared in the New York Times  
21 and maybe other magazines that attributed certain statements  
22 to me relative to Madison Guaranty Savings & Loan. And he --

1 and I've known Jim Blair, again, for 30, 40 years. We served  
2 on the State Board of Higher Education together for some 10 or  
3 12 years and as -- I didn't really consider so much as being  
4 connected to the campaign. I considered it more as an act of  
5 friendship that I could not --

6 I needed to be sure that any response I made to  
7 metropolitan press was probably better to reduce it to  
8 writing, unlike dealing with the Little Rock or Conway or the  
9 Paragould or the Jonesboro press, that I could not rely on  
10 their sense of fair play about taking things out of context or  
11 even misrepresenting, misquoting me.

12 I mean, the statement they made was absolutely blatantly  
13 untrue. It said that I had scolded Mr. McDougal for loans,  
14 imprudent lending practices at the savings and loan. And in  
15 the history of the world, including whatever time it is today,  
16 the Bank Commissioner in Arkansas has never ever had any  
17 jurisdiction over savings and loans of any kind.

18 Q. But you had, you had had discussions with Mr. McDougal  
19 about Madison Bank & Trust --

20 A. No.

21 Q. -- the commercial bank?

22 A. Oh, at the commercial bank.



1 Q. Yes.

2 A. I mean, yeah, but you have to remember that was, that  
3 was, I had -- I had two discussions with him, including in  
4 that the one board meeting. Following that board meeting --  
5 one, the board cooperated 100 percent. And in fairness to  
6 Mr. McDougal, he was a hundred-percent cooperative.

7 Within a few days after entering into this  
8 cease-and-desist order and after this discussion about the  
9 difference in which way commercial banks operate, and savings  
10 and loans, Mr. McDougal and his wife and Mr. Smith and his  
11 wife all resigned from the bank and from the bank board. All  
12 the loans, they had a time period of about 18 months and in  
13 about 10 months, Mr. Bunch, who was there before all this  
14 began, and interestingly enough doesn't own a neck tie. He  
15 doesn't wear a coat and tie to work. He wears cowboy boots to  
16 work and chews Redman tobacco and blue jeans and a blue denim  
17 shirt. He's still there.

18 And he wrote me -- first he called me and that's where  
19 you got the -- you have to send a written report in. I think  
20 you saw a similar report to what I'm talking about. They  
21 cleared up in about, from one-half to two-thirds of the total  
22 time they had to clear up their problems, they cleared them

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1 up. And the bank has not been a problem bank since.

2 Q. Do you recall discussing with anyone of the Clinton  
3 campaign anything having to do with the Bank of Paragould loan  
4 that Mr. and Mrs. Clinton had outstanding during the mid '80s?

5 A. I don't recall discussing that with anyone other than the  
6 people in Paragould as they might have approached me about it.

7 Q. Do you recall discussing the fact with anyone from the  
8 Clinton campaign that you had written various letters on your  
9 official stationery regarding the Clintons' Paragould loan?

10 A. I don't remember that.

11 Q. Did Mr. Blair say anything to you about Mr. McDougal  
12 during the course of your conversation with him?

13 A. No.

14 Q. This --

15 A. Not that I recall.

16 Q. Since, since Governor Clinton became President  
17 January 20, 1993, have you had any communications with anyone  
18 from the White House about your tenure as Banking Commissioner  
19 of Arkansas?

20 A. Should I be offended? The answer is no, absolutely not.

21 Q. Okay. So you haven't spoken to Bill, to Bruce Lindsey  
22 about it?

1 A. I haven't spoken to him. I haven't spoken to anybody at  
2 the White House about anything.

3 Q. Have you spoken to --

4 A. I haven't been to the White House.

5 Q. You haven't spoken to Mr. Blair since January 20, 1993  
6 about your tenure as Bank Commissioner?

7 A. Not about my tenure as Bank Commissioner? I may have  
8 spoken to Mr. Blair about one of the people in the Paragould  
9 bank was appointed to the University of Arkansas Board of  
10 Trustees. When Mr. Blair went off the State Board of Higher  
11 Education, he was appointed to the Board of Trustees,  
12 University of Arkansas. And I may have teased him about what,  
13 the demise of the University versus Arkansas State University  
14 at Jonesboro, my undergraduate alma mater.

15 I may have spoken to him about it or about the Razorbacks  
16 folding when the pressure got hot in the Sweet 16s, but I  
17 haven't spoken to him about politics or business since the  
18 Clintons have been in the White House. I don't think I've  
19 seen him but twice. And by that, in a large meeting room here  
20 in Little Rock at an event, I think, sponsored by one of our  
21 political leaders.

22 As I was leaving, he was coming in. So when I say seen

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1 him, have seen him, I don't mean that I went to Springdale or  
2 Bentonville or wherever the Blairs live or that he came to  
3 Paragould or Jonesboro or to Conway. We maintain two homes --  
4 one in Conway, one in northeast Arkansas.

5 Q. What is your present position?

6 A. I'm on sick leave.

7 Q. But what, what would be your position, chairman and CEO  
8 of Worthen Bank?

9 A. No. I left that bank about a year ago. If I were not  
10 recovering from a near fatal automobile accident, I would be  
11 chairman and chief executive officer of the Union Planters  
12 Bank of Northeast Arkansas, headquartered in Jonesboro,  
13 Arkansas. The best of my knowledge, they never ever made a  
14 loan to anybody in government. In government.

15 Q. That's probably fortunate for them.

16 A. It's fortunate for me.

17 Q. I don't have any further questions. If Mr. Cole does, we  
18 may be near the end of your examination.

19 MR. COLE: I have a few and I'll be brief  
20 because I know Mr. Giuffra wants to catch a plane.

21 MR. GIUFFRA: We've actually managed to be  
22 shorter than we even promised.

## FURTHER EXAMINATION

BY MR. COLE:

Q. I just want to go back over two or three things that I think have been thoroughly covered with Mr., by Mr. Giuffra.

Other than the one discussion that you have testified about with Governor Clinton concerning the cease-and-desist order at Madison Bank & Trust, did you ever have any -- during the entire time you served as Banking Commissioner, did you ever have any discussions with Governor Clinton about the Madison Bank & Trust other than the one you testified to here today?

A. You're talking about the bank?

Q. Yes.

A. No, I have not.

Q. And have you ever had any discussion, during the time you served as Banking Commissioner, with Governor Clinton about Mr. McDougal, Mr. McDougal's business activities?

A. No. You have to understand that those people have been friends for years and years. I'm talking about prior to my appointment and for the four and a half years after my appointment.

MR. GIUFFRA: You mean the Clintons and the

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McDougals?

THE WITNESS: Yes.

MR. GIUFFRA: And that was common knowledge in Arkansas that they were close friends?

THE WITNESS: Well, I don't know how common knowledge it was in Arkansas. I knew about it. I won't speak for the rest of the state. You know a lot of people don't -- you know, most people in the state of Arkansas don't give a rip about this whole thing. They've got a lot of other more important things to do. They've got crops to make and trees to cut and children to raise.

But anyway, I hardly knew -- I would not have known Jim McDougal if he hadn't, if he hadn't have walked up the first time I met him after being appointed Bank Commissioner and said, I'm Jim McDougal. I would not have recognized him. Now, I did meet him. I want to be totally candid.

I did meet him one time when Bill Fulbright was running for office and he was up in northeast Arkansas campaigning on behalf of Bill Fulbright. He did a extremely good job of alienating the people



1 that otherwise would have been disposed to vote for  
2 Bill Fulbright.

3 And I wouldn't presume -- you've got to  
4 understand my position. I was appointed by the  
5 Governor. I was a red neck country banker. I  
6 hadn't worked for Bill Fulbright. I hadn't worked  
7 in McGovern's Presidential campaign. I had not been  
8 on the Governor's staff.

9 I would not be so presumptuous nor so naive as  
10 to give Governor Clinton advice or discuss him his  
11 dealings with Jim McDougal or anyone else.

12 Now, I did, I do want to let the record stand  
13 clear. Every time that I closed a bank -- and I am  
14 very pleased that that wasn't very often. One year  
15 I served as Bank Commissioner in Texas and closed a  
16 hundred, five of which would equal all the money in  
17 all the banks in Arkansas. And the four and a half  
18 years of Bank Commissioner, we only closed two. And  
19 in both instances -- maybe three.

20 I notified the Governor. I notified the, one  
21 was in John Paul Hammerschmidt's district, a  
22 Republican. One was in Bill Alexander's district, a

1 Democrat. And I notified the Congressmen from that  
2 and I notified the Senators and I notified the  
3 Director of the State Police.

4 It just happened every time I closed a bank it  
5 was the only bank in town, and people would say  
6 nasty things to you. They would kick rocks at you.  
7 They didn't throw any at me, but they kicked them at  
8 me. And they would throw dirt on your car or your  
9 airplane. And so, you know, I would ask the  
10 Director of the State Police to send a couple of  
11 units at a predetermined time to "X" town and for  
12 them to wait in the bank parking lot so that they  
13 would be highly visible but not interfere with the  
14 changing guard.

15 The way that works is a Bank Commissioner goes  
16 in, enters an order of closure and then turns around  
17 and hands all the keys and signs a deal with the  
18 FDIC and the FDIC takes it up and you have -- you've  
19 already had bids to see who is going to be the  
20 successor. And then either the Bank Commissioner or  
21 the OCC issues a new charter for whoever the new  
22 banker is going to be and you turn around and sign



1 that and hand it to that group and they -- the FDIC,  
2 the new banker will get together late Friday  
3 afternoon and Monday morning a new bank arises. It  
4 dies, it is buried and the third day it arises from  
5 the dead.

6 Now, I did tell the Governor, out of respect to  
7 his office and because it very well could have and  
8 historically in many states, not in Arkansas in  
9 recent years -- but in many states, the closing of  
10 banks has resulted in riots, particularly if it's  
11 the only bank in town.

12 BY MR. COLE:

13 Q. Going back to the loan extension agreements that  
14 Mr. Giuffra showed you correspondence pertaining to at  
15 Security Bank of Paragould, the loan the Clintons had at  
16 Security Bank of Paragould, did you ever discuss that loan  
17 with Governor Clinton?

18 A. Not that I recall, no, sir.

19 Q. Did he ever express any concern or interest in that loan  
20 in any of his meetings or discussions with you?

21 A. No. The man -- I mean, I don't doubt that he knew the  
22 loan was there, but his forte was not business and it

1 certainly was not banking. No, I never -- I think I would  
2 have recalled if I had ever discussed it, in answer, again to  
3 your first question. No, I never did discuss the extension  
4 agreement or the loan with Governor Clinton and it was never  
5 brought up in any meetings in which we were both in  
6 attendance.

7 I discussed it with the bank after they paid it off  
8 because I said if you chinchy bankers had let me know when I  
9 was Bank Commissioner that I had a, that this loan was here  
10 and had not, and was about to be paid off, I would have gotten  
11 rid of that Dodge Aries and gotten a Lincoln Town Car like the  
12 Governor drove. But I didn't know the loan had been paid off  
13 for two or three years after it was paid off.

14 Q. And in your discussions with your friends at the Security  
15 Bank at Paragould, the several discussions that you've already  
16 testified to in response to Mr. Giuffra's questions, did they  
17 indicate any concern to you about the Clintons' loan or the  
18 performance of that loan?

19 A. No. They were very pleased with it. In fact, they  
20 were -- how they ultimately learned that they had been paid  
21 off, their loans, a lot of people as they got money and they  
22 got out of those high-interest-rate days, a lot of people paid

1 all the debts off they could and the loan amount went down  
2 and -- what I, they mentioned some of, losing some of their,  
3 some of their better loans and that happened to be one of them  
4 that they mentioned.

5 So, no, I never heard them -- and I might say if anyone  
6 was going to scrutinize that loan with extra scrutiny, I can  
7 assure you that the Federal Deposit Insurance Corporation,  
8 which is ultimately going to take all the risks beyond the  
9 shareholders -- if there had been any concern about that loan,  
10 it would have been a matter of public record, of record for  
11 the committee. It would have been well established as having  
12 been a substandard or loan of concern, et cetera.

13 Q. And based on your discussions with your friends at that  
14 bank, both at the time they asked you to forward the extension  
15 agreements and afterwards, do you have any reason to believe  
16 that your role in this influenced the way they handled that  
17 loan?

18 A. No, I do not believe it influenced it in the first  
19 instance. In the second instance, I would not think of  
20 attempting to influence it. And in the third instance, if I  
21 had have had the audacity to have attempted to influence it,  
22 they would not have permitted me to have influenced it.

---

1 Q. And your involvement in the matter basically was  
2 administerial?

3 A. That's correct. Trying to, trying to be the good  
4 Samaritan and helping a friend out, the friend being a banker  
5 in Paragould.

6 Q. They say that no good deed goes unpunished, so that may  
7 be a good place to stop this deposition. I don't have  
8 anything further.

9 MR. GIUFFRA: Thank you very much, sir. We  
10 appreciate your cooperation.

11 THE WITNESS: May I, may I make one thing that  
12 I think is important?

13 MR. COLE: Certainly.

14 THE WITNESS: I have said that I am not here as  
15 an opponent to do harm or to take sides between the  
16 majority party and the minority party. I recognize  
17 this Committee has an awesome responsibility and  
18 that America is ready for the Committee to put this  
19 thing behind them, find out all the facts, whatever  
20 they are, whoever they hurt. If it's an  
21 embarrassment to me that I, that I dictated a  
22 letter, then fine, let it be. I'm not embarrassed

1 by it, but if someone else is, that's their --

2 But by the same token, I think it would be  
3 unfair to conclude this testimony without my  
4 observing that while I have had a very casual  
5 professional relationship with Governor and  
6 Mrs. Clinton, I have known -- Arkansas is a very  
7 small state, less than 3 million people. I have, I  
8 have known of them almost a quarter of a century and  
9 I have never known of them to do anything illegal,  
10 immoral, or unethical or particularly sinful except  
11 for the Governor's language when the Razorbacks were  
12 losing.

13 MR. GIUFFRA: I hope you feel like you've had  
14 your opportunity here to state, provide your  
15 testimony.

16 THE WITNESS: I think y'all have been very,  
17 very fair. I appreciate very much the courtesies  
18 you've shown me -- the breaks, your being aware of  
19 my health infirmities and your concern over them and  
20 in a straightforward candid way, I will say that the  
21 methodology of the Committee seriously disadvantages  
22 those of us that are trying to rely on 14 or 10 or

1 12-year-ago memories.

2 If I had all the documents that you-all have  
3 and had all the time that the Committee's had to  
4 look at this, I might have a much clearer picture of  
5 what went on back then. I don't -- I walked into  
6 this room, you know, with my shirt on and my shoes  
7 on and the only thing I had in my brief case and --  
8 I gave it to my attorney.

9 MR. GIUFFRA: You don't think you need any more  
10 time to study the documents today?

11 THE WITNESS: No, no. I'm not saying you  
12 shorted me. I'm just saying --

13 MR. GIUFFRA: Okay.

14 THE WITNESS: -- from the beginning.

15 MR. GIUFFRA: Okay. Well, listen, we very much  
16 appreciate you coming down and thank you very much  
17 and this concludes the deposition.

18 THE VIDEOGRAPHER: Off the record, 4:39.

19 (WHEREUPON, at 4:39 p.m., the deposition was  
20 concluded.)  
21  
22



## C E R T I F I C A T E

STATE OF ARKANSAS}

}ss.

COUNTY OF PULASKI}

RE: ORAL DEPOSITION OF MARLIN JACKSON

I, CHERYL BARTNETT, CCR, CSR, RPR, a Notary Public in and for Pulaski County, Arkansas, do hereby certify that the transcript of the foregoing deposition accurately reflects the testimony given; and that the foregoing was transcribed by me, or under my supervision, on my Eclipse computerized transcription system from my machine shorthand notes taken at the time and place set out on the caption hereto, the witness having been duly cautioned and sworn, or affirmed, to tell the truth, the whole truth and nothing but the truth.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 12th day of February, 1996.

Cheryl Bartnett, CCR, CSR, RPR

LS Certificate No. 396

Notary Public in and for

Pulaski County, Arkansas

My commission expires: October 7, 2003.



**WITNESS SIGNATURE PAGE**

I, MARLIN JACKSON, the witness, hereby certify that I have thoroughly read the transcript of my deposition taken on the 12th day of February, 1996, and have made any necessary changes or corrections to make the transcript a true and accurate accounting of my testimony given on that day.

Signature

Date

STATE OF ARKANSAS

\*

\* ss.

COUNTY OF

\*

I, \_\_\_\_\_, a Notary Public in and for \_\_\_\_\_ County, Arkansas, do certify that above-named witness has read, corrected and signed the deposition in my presence. Given under my hand and seal of office on this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

My commission expires \_\_\_\_\_.



**DEPOSITION OF SETH WARD  
IN RE: S. RES. 120**

---

**MONDAY, FEBRUARY 12, 1996**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Videotaped oral deposition of SETH WARD, taken before  
JEFF BENNETT, Certified Court Reporter, LS Certificate No. 19,  
a Notary Public in and for White County, Arkansas, at 9:20 a.m.,  
at Bushman Court Reporting, 620 West Third, Suite 101, Little  
Rock, Arkansas.

**APPEARANCES**

ROBERT J. GIUFFRA, JR., Esq.  
Majority Chief Counsel  
LANCE COLE, Esq.  
Minority Deputy Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510

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### WITNESS

### EXAMINATION

#### Seth Ward

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1 THE ORAL DEPOSITION OF SETH WARD, a witness  
2 produced in the above-styled and numbered cause on  
3 the 12th day of February, 1996, before Jeff Bennett, CCR,  
4 LS #19, a Notary Public in and for White County,  
5 Arkansas, at Bushman Court Reporting, 620 West 3rd Street,  
6 Suite 101, Little Rock, Arkansas at 9:40 a.m..

7  
8 SETH WARD

9 the witness, being first duly cautioned and sworn or  
10 affirmed to tell the truth, testified as follows:  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

1 VIDEOGRAPHER: We're going on the record.  
2 Today is February 12, 1996. The time is 9:40 a.m.. This  
3 is the videotaped deposition of Mr. Seth Ward for the  
4 hearings conducted by the Senate Special Committee on  
5 Whitewater.

6 MR. GIUFFRA: Good morning, Mr. Ward. My  
7 name is Robert Giuffra. I am the Chief Counsel of the  
8 Senate Banking Committee. Across the table from me is  
9 Lance Cole, who is the Democratic Deputy Special Counsel.

10 This is a deposition that's being conducted pursuant  
11 to Senate Resolution 120. This resolution establishes a  
12 Special Committee administered by the Banking Committee to  
13 conduct an investigation of Whitewater Development  
14 Corporation, Madison Guaranty Savings & Loan Association  
15 and other related matters.

16 Now, the procedure this morning is as follows: Mr.  
17 Cole and I will be asking you a series of questions.  
18 You'll be under oath. If you don't understand a question,  
19 let us know and we'll rephrase it. If you need a break at  
20 any point today, let us know and we'll take a break.

21 The court stenographer will prepare a record of the  
22 questions and answers. This deposition will be treated as

1 committee confidential until it's made public.

2 We're also preparing a videotape of this deposition  
3 which may be shown, in whole or in part, at the  
4 committee's public hearings.

5 Now, you have a right to be represented by counsel,  
6 if you would choose to do so, and you've decided not to be  
7 represented by counsel?

8 A. No.

9 MR. GIUFFRA: You should speak loudly into  
10 the microphone just so you'll be heard.

11 A. Well, I don't care for counsel.

12 MR. GIUFFRA: Okay. You can object to the  
13 questions if you don't understand them. You can also  
14 object if it in some way would cause you to evade an  
15 attorney/client privilege you might have or if you think  
16 it goes beyond the scope of our resolution.

17 Do you have any questions before we start?

18 A. No.

19 MR. GIUFFRA: Okay. Would you please  
20 swear the witness.

21 (The witness was sworn.)

22 EXAMINATION

1 BY MR. GIUFFRA:

2 Q. Mr. Ward, am I correct that you first became involved  
3 with Madison Guaranty Savings & Loan in the summer of  
4 1985?

5 A. That's correct.

6 Q. And you were hired as a consultant by Madison  
7 Guaranty?

8 A. I was hired to try to find property that they could  
9 buy. And if they purchased the property and developed the  
10 property and sold the property, I'd get 10 percent  
11 commission of the sale price when they sold it. I also  
12 was to receive \$25,000 a year. But it was a -- considered  
13 a part-time job, because I was -- I did not have to punch  
14 a clock. I didn't maintain any hours. Whenever I was --  
15 had time to go look for property.

16 Q. Now, am I correct that Webster Hubbell is your  
17 son-in-law?

18 A. That's correct.

19 Q. And he occasionally performed some legal services for  
20 you and your family?

21 A. I'd say seldom, but not in connection with --  
22 anything connected with Madison.

- 1 Q. But he sometimes performed some legal services for  
2 you and your companies or your family?  
3 A. Well, prepared a Will, such matters as that.  
4 Q. Did he work on a case called -- involving POM for  
5 your family?  
6 A. Not for my family, but POM --  
7 Q. POM, which is a company that you -- your son Seth  
8 Ward, Jr. -- Seth Ward II is an officer of?  
9 A. No, he owns it.  
10 Q. He owns it. Now, do you know Hillary Rodham Clinton?  
11 A. Yes.  
12 Q. How do you know Hillary Rodham Clinton?  
13 A. I was on the Airport Commission for a number of  
14 years, and we hired Mrs. Clinton as our attorney.  
15 Q. When did you first meet Mrs. Clinton?  
16 A. Well, I would say about -- sometime about '75,  
17 somewhere in there.  
18 Q. Do you know Bill Clinton?  
19 A. No. I've met him.  
20 Q. But you know Mrs. Clinton reasonably well, would you  
21 say?  
22 A. I would say so.
- 

- 1 Q. And she provided legal services to the Little Rock  
2 Airport Commission when you were a commissioner?  
3 A. That's right.  
4 Q. Okay. You worked for Madison between 1985 and 1986;  
5 is that right?  
6 A. That's right.  
7 Q. Now, when you worked for Madison, do you recall  
8 working with any attorneys from the Rose Law Firm?  
9 A. No, I do not. I know it's been stated that a Mr.  
10 Thrash was present when we closed the purchase of the  
11 Industrial Development Company. I do not know Mr. Thrash.  
12 And if he were there, I would have only assumed that he  
13 was part of the staff of Beach Abstract Company, but I  
14 didn't know it.  
15 Q. Now, you're familiar with the Rose Law Firm, right?  
16 A. Yes, I am.  
17 Q. And --  
18 A. To some extent.  
19 Q. Now, the IDC transaction is the Industrial  
20 Development Corporation property that you helped bring  
21 into Madison; do you recall that?  
22 A. I didn't hear your question.

- 1 Q. You recall bringing into Madison the proposal to buy  
2 the Industrial Development Company property?  
3 A. Yes.  
4 Q. And this was a transaction you brought to Mr.  
5 McDougal, correct?  
6 A. I didn't hear the question.  
7 Q. You brought this transaction to Mr. McDougal's  
8 attention in 1985?  
9 A. Yes, I did.  
10 Q. And was the entire property known as Castle Grande?  
11 A. No.  
12 Q. Was it known as Industrial Development Corporation?  
13 A. That's right.  
14 Q. Was any part of the property known as Castle Grande?  
15 A. Later on, after it was purchased, Mr. McDougal named  
16 a portion of it Castle Grande.  
17 Q. So, after it was purchased, Mr. McDougal named a  
18 portion of the property Castle Grande?  
19 A. That's right.  
20 Q. Did he refer to the entire property as Castle Grande  
21 or just a portion of the property as Castle Grande?  
22 A. As far as I know, it was just that portion.
- 

- 1 Q. And this would be the portion having to do with the  
2 trailer homes?  
3 A. Yes.  
4 Q. Now, you were involved in negotiating the price of --  
5 to purchase this property from IDC, correct?  
6 A. Yes. Am I at liberty to tell you how this came  
7 about?  
8 Q. Certainly. Just tell us on the record.  
9 A. In the first place, I want to remind you that some  
10 things I remember and some things that I don't and some  
11 things that I'm recollecting to the best of my ability.  
12 But, after I had been with the Industrial Development  
13 Company, I don't know, three months or so --  
14 Q. You mean, Madison? You were with Madison --  
15 A. Excuse me. Madison. Mr. McDougal asked me if I knew  
16 anybody associated with the Industrial Development  
17 Company, and I replied that I did. He said, "Well,  
18 Madison can buy some property south of the Industrial  
19 Development Company from the International Paper Company  
20 at a bargain price. But the trouble is it's landlocked.  
21 There are no roads going in to or out of it. Would you  
22 ask the Industrial Development Company if we could have an



1 easement from 145th Street south through that portion of  
2 the Little Rock Industrial Development Company into the  
3 International Paper Company property?" And I replied that  
4 I would go ask. I went to the late Everett Tucker, who  
5 managed the Industrial Development Company. And he told  
6 me that he wouldn't give an easement, but that he would  
7 sell the entire property. I asked him for how much. He  
8 told me it was worth \$9 million. That it was on their  
9 books for \$3 1/2 million, and that's what they would sell  
10 it for.

11 At that point in time, I informed McDougal that he  
12 would not give an easement, but they would sell the entire  
13 Little Rock Industrial Development Company to him for  
14 \$3 1/2 million. McDougal became somewhat indignant and  
15 said that he couldn't afford to pay that much. And it  
16 made no difference to me, I was just a messenger.

17 I would like to state at this time that at no time  
18 did I have any idea what Madison's financial structure  
19 was. I did not know of what their so-called ratio was  
20 versus assets and lending limits. I had no knowledge of  
21 it at all. I had never known Mr. McDougal prior to the  
22 time that I became involved with him. I met him through a

---

1 mutual -- well, through a friend.

2 Q. This is Mr. Denton?

3 A. Denton. I met him through Don Denton.

4 MR. COLE: Who was Mr. Denton?

5 A. Don Denton used to be the chief loan officer for  
6 Union National Bank. At the time I met McDougal, he was  
7 the chief loan officer for Madison Guaranty Savings &  
8 Loan. And he invited me to come down and see his new  
9 office. And while I was there, he introduced me to Mr.  
10 McDougal.

11 After telling Mr. McDougal of the reply of the  
12 Industrial Development Company, I learned that the  
13 Industrial Development Company was in the arrears on a  
14 bank loan. As a matter of fact, there was three banks  
15 working in conjunction with one another that had loaned  
16 the Industrial Development Company \$2 million, and they  
17 were in the arrears for about two years. And the thought  
18 occurred to me that I would get the banks to discount  
19 those notes. I personally purchased those notes and  
20 foreclosed and thereby owned the property myself.

21 I met -- I can't remember his name, but one of the --  
22 either a president or vice president --

1 Q. (BY MR. GIUFFRA) Brick Lyle?

2 A. -- of First Commercial Bank, and was Brick Lyle. And  
3 Brick Lyle was one of about six men who owned the Little  
4 Rock Industrial Development Company. We negotiated a  
5 price whereby I could buy it for a million seven. And I  
6 was preparing to purchase it myself, because at that price  
7 and all that it entailed would have been a substantial  
8 bargain, at least wise to me.

9 But then I recalled that I was drawing \$25,000 a year  
10 from Madison. So I felt honor-bound to run it by Mr.  
11 McDougal. At that point, he said, "Well, at that price,  
12 we'd like to share it with you." And I asked him what he  
13 had in mind. He said, "Well, for \$600,000, we'd like to  
14 buy all the property south of 145th Street." And I would  
15 take all the remaining property, which would have been  
16 north of 145th Street, plus some property over off of the  
17 other industrial development location on 65th Street, plus  
18 the utilities both north and south of 145th Street. And  
19 for that my share would be a million and seven. Excuse  
20 me. A million one-fifty. So I told him that I would  
21 arrange my own financing. At which point, he said, "That  
22 won't be necessary. Madison will finance it. Madison

1 Guaranty will finance it for you." And as a matter of  
2 fact, he stated that since it was such a good deal they  
3 would be able to finance it for me on a non-recourse note.

4 Q. And non-recourse means that if you defaulted on the  
5 loan Madison couldn't go after your personal assets?

6 A. That's right. They would go after the property  
7 itself.

8 I wasn't inclined to change those terms, the terms  
9 that he had stated. After we made the verbal agreement,  
10 which included, incidently, he wanted the right to help me  
11 sell all the property. And he wanted an option for 270  
12 days, for which he agreed to pay me \$35,000 for that  
13 option. And --

14 Q. Now, did Mr. McDougal ever say anything to you about  
15 why he was structuring the transaction so that you would  
16 buy some of the property and that Madison Financial would  
17 buy another part of the property?

18 A. None other than the fact when he said, "At that  
19 price, we'd like to share it with you." He never told me  
20 anything at all about any limitations, loan limitations,  
21 and I had no knowledge of any of their loan limitations.

22 Q. Did you subsequently learn that there was a loan

1 limitation that was driving Mr. McDougal to structure the  
2 transaction as he did?

3 A. Well, not immediately. I did later on, which I'll  
4 explain to you later on. But it was quite some time down  
5 the road. But not at all during the time that he was --  
6 they were putting the deal together and selling that  
7 property.

8 At that time, in the newspapers here in Little Rock,  
9 there was a description of a new highway that was going to  
10 circle the south side of Little Rock. It went from  
11 Highway 30 to Highway 68, I believe it is, which is the  
12 Little Rock/Pine Bluff highway.

13 MR. COLE: Highway 65?

14 A. 65. And it would dissect Highway 65 right there at  
15 145th Street.

16 Now, the property which would be in the northeast  
17 quadrant of that intersection, 21 acres known as Holman  
18 Acres, would have been an ideal location for a shopping  
19 center. So I didn't want to sell it, and I excluded it  
20 from my -- from the deal.

21 MR. COLE: When you say you excluded it  
22 from the deal, does that mean that --

1 A. He could not sell it.

2 MR. COLE: -- the option that you gave Mr.  
3 McDougal for 270 days did not include --

4 A. It did not include it.

5 MR. COLE: -- that property?

6 A. Once we made our verbal agreement, Mr. McDougal  
7 appeared to me to become somewhat excited. And he assumed  
8 the leadership role. He stated that Madison would make --  
9 purchase it. And he gave me several memorandums and  
10 directives. Since none of them violated the terms of our  
11 verbal agreement, I didn't object.

12 Now -- so we went to reduce this in writing. I asked  
13 Webb Hubbell if he would help me. And Webb said no, that  
14 he couldn't because his firm represented Madison.

15 MR. COLE: And what were you asking Mr.  
16 Hubbell to help with you?

17 A. Write the agreement.

18 MR. COLE: To write the agreement with Mr.  
19 McDougal?

20 A. Write the agreement.

21 Q. (BY MR. GIUFFRA) And is this the agreement that was  
22 dated September 24, 1985?



- 1 A. Yes.
- 2 Q. And it was backdated?
- 3 A. Nothing was backdated per se. I'll explain it to
- 4 you.
- 5 Q. Okay. Just tell us the story?
- 6 A. He said that he could not represent me because his
- 7 firm represented Madison. I frankly felt like that it was
- 8 a -- his polite way of saying that he didn't want to spend
- 9 the time on the matter, because I did not believe his firm
- 10 -- at that time at least, I did not believe that his firm
- 11 represented Madison, because I had never seen anybody from
- 12 Madison there.
- 13 Q. From Rose?
- 14 A. From Rose. I had never seen anybody there. And I
- 15 had never heard of them being referred to by anybody at
- 16 Madison that I recall.
- 17 And as a matter of fact, they had a lawyer on their
- 18 board named Steve Cuffman and --
- 19 Q. This is on the Madison Board?
- 20 A. Yes. And Steve Cuffman was there quite frequently.
- 21 And I frankly assumed, right or wrong, that he was their
- 22 attorney.

- 1 Q. What law firm was Steve Cuffman with?
- 2 A. I don't know. I guess it's his own firm.
- 3 But, anyhow, I asked Webb -- I'd been hearing on the
- 4 radio, from what I've listened in to on these hearings so
- 5 far, that there were two agreements. And actually there
- 6 were three written.
- 7 Q. By "three agreements," you mean agreements between
- 8 yourself and Mr. McDougal?
- 9 A. Uh-huh. And I -- I will give you that in a second.
- 10 I asked Webb could I use his secretary to type an
- 11 agreement for me, and he said yes. Well --
- 12 Q. Now, was that something you occasionally did?
- 13 A. No, but I needed a secretary.
- 14 Q. Okay. So you did not normally use Mr. Hubbell's
- 15 secretary to be your secretary or to type things up for
- 16 you?
- 17 A. No, no, no. I asked him if he could -- if I could
- 18 use her and he said yes, I could.
- 19 And I dictated her an agreement to her. And after --
- 20 I had never dictated an agreement to her before. And
- 21 after it was completed, I read it. And I decided that it
- 22 wasn't what I wanted. It didn't include what all that I



1 wanted. So neither Jim McDougal or myself executed it.  
2 But it was dated September the 23rd. You can have a copy  
3 of it.

4 Q. Thank you, sir.

5 MR. COLE: Did you show that to Mr.  
6 McDougal and discuss it with him or did you just look at  
7 it yourself and decide --

8 A. I just looked at it myself.

9 Q. (BY MR. GIUFFRA) Did you show this agreement to Mr.  
10 Hubbell?

11 A. I didn't use Mr. Hubbell.

12 Q. No. But did he look at it after it was typed for  
13 you?

14 A. No.

15 Q. So he never saw this document that's dated --

16 A. Not as far as I know.

17 Q. -- September 23, 1985?

18 A. Not as far as I know.

19 I didn't -- after he told me that he didn't want to  
20 represent me on this, I certainly wasn't going to involve  
21 him.

22 On the 24th, Ms. Sue Strayhorn wrote the agreement.

---

1 Q. Who is Sue Strayhorn?

2 A. She was Mr. McDougal's secretary.

3 And she wrote the agreement. And it was -- that's  
4 the one on the 24th, which I think you're familiar with.  
5 But, at a later date, both Mr. McDougal and I exercised --  
6 signed the agreement and we executed it.

7 Q. And, Mr. Ward, is it this document that bears the  
8 Bates No. SWI-008 to 009, and it's got "void" written  
9 across the --

10 A. Yes.

11 Q. Okay. This is the first --

12 A. This is the second one. This is the one that Ms. --

13 Q. Strayhorn typed.

14 A. -- Strayhorn wrote.

15 Q. Okay. So the first one you talked about was the one  
16 that you and -- you typed at Mr. Hubbell's office -- had  
17 typed at Mr. Hubbell's office?

18 A. That's right.

19 Q. Which you just gave us today, which is dated  
20 September 23, correct?

21 A. That's right.

22 Q. And why was this -- why did this agreement dated

1 September 23, 1985 not set forth your agreement with Mr.  
2 McDougal?

3 A. That didn't include all that I wanted in there.

4 That's all.

5 Q. What was missing?

6 A. Well, I would have to compare it at this point in  
7 time. But, right off the bat, I can tell you the  
8 commissions weren't proper. I didn't use it.

9 But, anyhow, they had Ms. Strayhorn write it. And at  
10 a later time, and I don't recall how -- whether it was a  
11 week or two weeks or a month or when, I discovered that  
12 this agreement marked "void," written on the 24th, did not  
13 include the exclusion of Holman Acres.

14 Q. Okay. So this was about ten days to two weeks after  
15 September 24?

16 A. Sometime thereafter. I don't know the exact times.

17 Q. Do you know how -- was it a month?

18 A. I don't recall.

19 Q. Okay.

20 A. I know it was afterwards.

21 Q. Was it a substantial period of time afterwards or  
22 just several days?

1 A. I would say -- I don't know. I would say several  
2 weeks.

3 MR. COLE: Let me ask you this, Mr. Ward.  
4 The documents that we have indicate that the closing took  
5 place on October 4th. And we can show you those  
6 documents. Do you recall whether it was before or after  
7 the closing that you noticed that this --

8 A. It would be after the closing.

9 MR. COLE: It was after the closing?

10 A. It would have had to have been.

11 But, anyhow, when I discovered that --

12 Q. (BY MR. GIUFFRA) Why do you say it had to be after  
13 the closing?

14 A. Because I think I would have observed it at the time  
15 of closing; that's why.

16 Q. So you think you may have observed there was a  
17 problem --

18 A. Also, the -- also, the legal descriptions were passed  
19 out at closing and I would have noticed it.

20 Q. So you think you may have noticed the problem with  
21 the letter that Ms. Strayhorn drafted at the closing?

22 A. I didn't -- I did not notice it at closing.

- 1 Q. So it would have been after the closing?  
2 A. That's what I say.  
3 Q. Okay.  
4 A. Now, when I observed it, I asked two lawyers; one  
5 being Webb Hubbell, on a hypothetical basis, not as a --  
6 not as a representative of Madison or anything, what my  
7 problem was and asked if there would be any problem in  
8 replacing the first agreement with the second agreement  
9 corrected with the same date. He says, "No, it would be  
10 -- if you want to -- if there's an error in the first  
11 agreement and both parties agree to the change, it's  
12 perfectly legal and perfectly proper to replace the  
13 original one with a new original one of the same date."  
14 And since this has come up in the hearing, which I've  
15 heard, I've also checked with a couple of other lawyers,  
16 and they all confirm that that was perfectly proper.  
17 Q. Okay. So Mr. Webb Hubbell told you you could do this  
18 back in 1985?  
19 A. I said, "on a hypothetical basis." I checked with  
20 him and another lawyer before.  
21 Q. Do you remember who the other lawyer was?  
22 A. No. But give me time, and I might remember.
- 

- 1 Q. Okay.  
2 MR. COLE: So what happened next, after  
3 you checked with the lawyers?  
4 A. I wrote it out myself, this time on yellow paper, and  
5 asked Webb if his secretary would type it for me, and she  
6 did. And Mr. McDougal and I both executed it.  
7 Q. (BY MR. GIUFFRA) Did Mr. Hubbell look at any of the  
8 -- the draft that you had written on the yellow pad?  
9 A. No.  
10 Q. So he never -- did he see it after it was typed?  
11 A. No, not that I know of.  
12 Q. So he never reviewed it, as far as you're concerned?  
13 A. Webb stayed hands -- hands-off.  
14 Q. So this would be on the second letter dated September  
15 24, 1985?  
16 A. Yes.  
17 Q. And he stayed hands-off because he did not want to  
18 get involved because Rose was representing Madison?  
19 A. That's what he had told me.  
20 Q. Did he tell you that back in 1985?  
21 A. Yeah, he told me early on that he -- when I first --  
22 the first time he told me was when I first asked him to

- 1 write -- help me write a letter. That's when he said he  
2 couldn't do it.
- 3 Q. Okay. Now, what happened next, sir?
- 4 A. Well, what do you mean, "what happened next?"
- 5 Q. After you had the agreement that was signed by Mr.  
6 McDougal and yourself dated September 24, did you then get  
7 involved in trying to sell some of the properties?
- 8 A. The reason why I gave Mr. McDougal the option to sell  
9 the property is because I wanted to sell it. I only  
10 bought the property to speculate.
- 11 Q. Short-term speculation?
- 12 A. Huh?
- 13 Q. Was it short-term speculation?
- 14 A. Yes. Well, short-term, I mean I -- I wasn't -- I  
15 didn't think it was going to be as short as it turned out  
16 to be. Because, in a matter of a few months it seems, Mr.  
17 McDougal had sold it all.
- 18 Now, granted, that in looking back in retrospect some  
19 of those sales were highly questionable.
- 20 Q. Why do you say, "some of those sales were highly  
21 questionable?"
- 22 A. Because I have -- I have since heard of the -- some

- 1 of the people he sold the property to, ah, they were  
2 contested. Some of the people --
- 3 Q. They were Madison insiders?
- 4 A. Yes.
- 5 Q. So they weren't putting up any money to buy the  
6 property?
- 7 A. I don't know what they put up.
- 8 MR. COLE: Before we begin to talk about  
9 the subsequent sales of the property, could we switch over  
10 and let me ask Mr. Ward some additional questions about  
11 the initial purchase.
- 12 EXAMINATION
- 13 BY MR. COLE:
- 14 Q. Before we shift gears, Mr. Ward, and begin to talk  
15 about the sales of the property after you and Madison  
16 Financial purchased it, I had a few more questions about  
17 when you initially purchased the property from Industrial  
18 Development Company. What was the size of the parcel when  
19 you first looked at it with IDC?
- 20 A. I can't correctly answer that at this time. As near  
21 as I can recollect, it was about 1,100 acres.
- 22 Q. So it was over 1,000 acres?



1 A. Yes.

2 Q. And what was the original asking price from -- that  
3 IDC was asking for the property?

4 A. \$3 1/2 million.

5 Q. Was there an appraisal on the property at that time,  
6 do you recall?

7 A. I don't recall. But I do know that the property out  
8 there with utilities would certainly be worth 2 to \$3,000  
9 an acre, if you wanted to do anything with it at all.

10 And I might add, if I could interrupt myself and you  
11 too?

12 Q. Certainly, sir.

13 A. I wasn't surprised when McDougal asked for the  
14 property south of 145th, because that was what he was  
15 interested in mostly anyhow so he could get the easement  
16 to the IPC property, plus the fact that a lot of it -- of  
17 that property I knew was in the floodplain. It would have  
18 presented a problem to me anyhow.

19 Q. Let me ask you this about the property that Mr.  
20 McDougal was interested in south of 145th Street. Do you  
21 know what kind of real estate development projects Mr.  
22 McDougal was doing at Madison Guaranty at that time; were

1 they residential or were they industrial?

2 A. Residential.

3 Q. So --

4 A. As far as I know.

5 Q. And the property that you acquired that was north of  
6 145th Street, was that property residential or industrial?

7 A. Well, now, all the property out there had originally  
8 been platted and developed for industrial use. But there  
9 was no industrial growth out there at that time. And  
10 McDougal obviously wanted it for residential development.  
11 I wanted it for however I could sell it.

12 Now, the -- it wasn't but just about a month or so  
13 after we acquired the property that McDougal told me he  
14 sold, I don't know, 4 or 500 acres of my property north of  
15 the highway to J. William Fulbright. And in a matter of a  
16 few months, it appeared that he sold it all.

17 Now, the first time that I felt that I was being had,  
18 which I -- do you want me to talk to --

19 Q. You keep going, sir.

20 A. I don't know which one of ya'll want to hear me when  
21 I say I had been had.

22 Q. I suspect that we both do.

1 MR. GIUFFRA: Tell us how you believe you  
2 were had by Mr. McDougal?

3 A. He came to me one day and said, "I have a buyer for  
4 the sewer and waterworks." And I said, "You do. For how  
5 much?" He said, "\$350,000." "To whom?" Said, "Jim Guy  
6 Tucker. Is it agreeable to you to sell it at that price?"  
7 Well, I thought that was relatively low. But if he had a  
8 buyer at that price, I agreed he could go ahead and sell  
9 it. But about three or four days later, maybe a week,  
10 whenever, I discovered that he didn't sell it to Mr.  
11 Tucker for 350. That he had sold it to him for  
12 \$1,250,000. And that was McDougal's way of not having to  
13 pay me that much commission or to credit my note that  
14 amount.

15 Q. (BY MR. COLE) Under your agreement with Mr.  
16 McDougal, you were entitled to a 10 percent --

17 A. Yes.

18 Q. -- commission on that kind of sale?

19 A. Yes, on any of the sales. And principal would be  
20 applied to my note.

21 And so, there's an old saying, "That if you sleep  
22 with the dogs, you wake up with the fleas." And it's

1 obviously been the situation with me in this case.

2 But I will have to tell you on the front end, I had  
3 no knowledge at all that Mr. McDougal was anything but an  
4 honest, reputable businessman. I had never met him  
5 before. I may have told you earlier on here, but I -- the  
6 only thing I knew about the company really was after I had  
7 been with him for a week or two they had a big party,  
8 office party celebrating their one hundred millionth  
9 dollar deposit. And, frankly, that impressed me. I  
10 figured any outfit with a \$100 million ought to be fairly  
11 sound. And that's the way I believed the company to be  
12 until they didn't pay me any commissions.

13 Q. I have one more question, Mr. Ward, about the --  
14 before we get into the commissions and the sales -- about  
15 the closing of the property, the initial purchase. Did  
16 that take place at Beach Abstract --

17 A. Yes.

18 Q. -- Company, you testified earlier. And you don't  
19 have to study these, but these are the settlement  
20 statements from Beach Abstract, dated October 4, 1985, for  
21 the closing. Is that consistent with your recollection  
22 that the closing occurred on October 4, 1985?

1 A. Well, it would have had to have been.

2 Q. And it appears from these closing statements that  
3 your portion of the property for \$1.15 million was divided  
4 into two parts; one for \$750,000 and one for \$400 -- a  
5 little over \$400,000. Do you recall that aspect of the  
6 transaction?

7 A. I don't recall it. I'm sorry.

8 Q. Let me ask you this, sir. These settlement  
9 statements indicate that mortgages will be taken out; one  
10 in the amount of \$750,000 and one in the amount of  
11 \$400,000, by the purchaser and that was you?

12 A. (Witness viewing document.)

13 Q. And take all the time you need to look at those  
14 documents.

15 But my question is going to go to the financing that  
16 Madison provided to you.

17 A. (Witness further viewing documents.) Well, this  
18 doesn't tell me -- it doesn't tell me -- it doesn't  
19 itemize it.

20 Q. That's my question, sir. Because you testified that  
21 the financing that Mr. McDougal offered you at Madison was  
22 on a non-recourse basis. This is a copy of the Promissory

---

1 Note you signed at Madison Guaranty Savings & Loan for  
2 \$1,150,000?

3 A. Uh-huh.

4 Q. And it states -- and you can follow along with me.  
5 I'll read the portion of this note that indicates that  
6 it's non-recourse to you and correct me if I'm wrong, is  
7 the portion at the bottom that states, "Notwithstanding  
8 anything herein to the contrary, makers and payee covenant  
9 and agree that makers, their heirs and assigns shall not  
10 be personally liable to the holders of this note for any  
11 default which may occur in the performance of any of the  
12 terms hereof undertaken or required to be performed by  
13 makers, including but not limited to all installment  
14 payments due hereunder." And it goes on to say that, "The  
15 sole remedy of the holders in the event of any such  
16 default shall be to proceed against the collateral  
17 encumbered mortgage securing," and the last line is hard  
18 to read, but I assume it says, "the property."

19 Is that the portion of the note that made it  
20 non-recourse and secured only by the property, Mr. Ward?

21 A. Yes, and I told you early on --

22 Q. Yes, sir.



1 A. I told you early on that he said, "At that price, I'd  
2 like to share it with you." And he also -- when I told  
3 him that I would arrange my financing, he said, "We'll  
4 finance it for you. And, in fact, it's such a good deal,  
5 it will be a non-recourse note."

6 Now, I'll be honest with you, somebody offers me a  
7 non-recourse note, I'm not going to try to make them  
8 change their mind.

9 Q. I understand. What's the date of that note, Mr.  
10 Ward? If you look in the upper, right corner.

11 A. October the 15th.

12 Q. And what was the date of the closing on the  
13 settlement statements that you have there?

14 A. October the 4th.

15 Q. So the terms of this note were arrived at subsequent  
16 to the closing, according to this documentation?

17 A. Well, that's what it appears.

18 Q. So if a lawyer or a lawyer from the Rose Law Firm had  
19 been at the closing, and I realize you don't recall  
20 whether or not that was the case, but the Promissory Note  
21 that made your financing non-recourse was not executed at  
22 the closing it appears from the documents. Do you have

1 any recollection about that, sir?

2 A. I don't have any recollection.

3 MR. GIUFFRA: You don't have any  
4 recollection one way or the other?

5 A. No, I don't.

6 Q. (BY MR. COLE) Do you recall whether the financing  
7 terms were discussed at the closing, beyond what's shown  
8 on the settlement statements?

9 A. No, I do not.

10 MR. GIUFFRA: Did you believe that the  
11 financing terms were set at the closing or after the  
12 closing?

13 A. I think the financial terms were set before the  
14 closing.

15 MR. GIUFFRA: Before the closing. And the  
16 financing that you were going to receive to purchase the  
17 property, was that something that was decided before the  
18 closing as well?

19 A. I'm sorry?

20 MR. GIUFFRA: How you were going to  
21 finance your portion of this, in terms of whether Madison  
22 would give you a loan, was that done before the closing?



1 A. As I understand your question; how was I going to  
2 finance it?

3 MR. GIUFFRA: Yeah. Was that decided  
4 before the closing?

5 A. Yes.

6 MR. GIUFFRA: So whether Madison was going  
7 to give you a loan for the purchase price --

8 A. Yes, I told you that.

9 MR. GIUFFRA: And that was going to be a  
10 non-recourse loan?

11 A. I told you that when I told him when I was going to  
12 buy the property, he wanted to share it with me, and he  
13 said that -- at that point I told him that I would raise  
14 my own financing. He said, "Well, Madison will handle the  
15 financing for you." And then is when he told me it's such  
16 a -- "because its such a good deal, you won't have to --  
17 it will be a non-recourse note."

18 Q. (BY MR. COLE) And that was a discussion between you  
19 Mr. and Mr. McDougal?

20 A. Yes.

21 Q. Was anyone else present that you recall?

22 A. I don't recall.

1 Q. Were there any lawyers present?

2 A. No.

3 Q. And this was a discussion that took place prior to  
4 the closing?

5 A. Yes.

6 MR. COLE: Thank you.

7 A. I would have had no problem whatsoever financing it  
8 myself.

9 Q. (BY MR. COLE) You were prepared to purchase the  
10 property yourself if Mr. McDougal had not offered to  
11 buy --

12 A. If he hadn't offered to buy it, I was going to.

13 Q. You would have bought the entire parcel?

14 A. I would have bought the entire parcel. In  
15 retrospect, I wish I had.

16 Q. And you had told us -- you had begun to tell us about  
17 the sale of the water and sewer utility?

18 A. Well, that's when I decided I was in a new ballgame.

19 I made a few notes here myself. I demanded that I  
20 get -- be paid my commission. And I was told that -- by  
21 John Latham, that Madison Financial Corporation was not in  
22 a financial position at that time to pay me.

- 1 Q. Who was Mr. Latham at that time?  
 2 A. He was president of the company.  
 3 Q. At Madison?  
 4 A. Yes. He said, "We'll you -- if you need the money,  
 5 we'll loan you some money." I said, "Well, you owe me  
 6 money and then you loan me more money, I'll owe you twice  
 7 as much and that's not -- that doesn't make sense." He  
 8 said, "Well, we'll loan you -- we could loan you -- if you  
 9 need some cash." And I needed -- I needed -- I had a need  
 10 for some cash. "We'll loan you \$400,000 and secure it  
 11 with the -- with a mortgage on the Holman Acres." I said,  
 12 "So." "Yes, but then we will give you -- we'll have  
 13 Madison Financial give you a note for \$300,000 to offset  
 14 it."  
 15 Q. And that \$300,000 note would evidence what you  
 16 contended Madison owed you for commissions?  
 17 A. That, plus. Now --  
 18 Q. And when you say, "that, plus," you felt they owed  
 19 you --  
 20 A. Because the commissions amounted to more than that.  
 21 Q. You felt they owed you more than \$300,000?  
 22 A. That -- now, later on, and I can't tell you how late

- 1 it was. I don't know. But I saw that the rode was not  
 2 going to come through.  
 3 MR. GIUFFRA: Madison was not going to  
 4 come through?  
 5 A. The road. The new highway I was talking about.  
 6 Q. (BY MR. COLE) The bypass that would intersect --  
 7 A. Yes.  
 8 Q. -- Highway 65 where your property was located?  
 9 A. I learned that rode was not going to be built. I  
 10 also learned that McDougal wasn't going to build all the  
 11 houses that he had promised to build. McDougal wanted  
 12 that property and --  
 13 Q. "That" being the property that's referred to as  
 14 Holman Acres?  
 15 A. Yes.  
 16 Q. In the northeast quadrant?  
 17 A. He wanted it. So I deeded it back to him as the  
 18 collateral. And so they had my property, which in effect  
 19 they had purchased for \$300,000. Now, I had borrowed 400,  
 20 but I had paid back a 100.  
 21 And this was another time -- another thing that took  
 22 place after the waterworks. I told you I didn't know

1 anything about their financial structure. A friend came  
 2 to me one day, and said that, "Mr. McDougal needed some  
 3 cash in Madison Financial and would we loan him \$200,000?"  
 4 And I said, "Well, I don't exactly have \$100,000 to lend."  
 5 He said, "Well, Madison Guaranty Savings & Loan will lend  
 6 it to us." I said, "Well, that's like robbing Peter to  
 7 pay Paul." He said, "But it doesn't make any difference  
 8 where it came from as long as it doesn't come from  
 9 McDougal." "Okay, I'll loan a hundred." So that's when I  
 10 increased the loan that was made on the Holman Acres from  
 11 \$300,000 to \$400,000.

12 But then two days later a friend came back and said,  
 13 "McDougal under estimated the amount of money he needed.  
 14 He needs \$400,000." And I said, "Well, that's more than I  
 15 want to get involved in." He said, "Well, he'll  
 16 collateralized it with all the uncommitted property south  
 17 of 145th and that's certainly excellent collateral." I  
 18 said, "Yeah, I know. But you're the real estate man and  
 19 I'm not."

20 Q. Who was the friend that you had this discussion with?

21 A. Well, Mr. Bob Wilson. I said, "You're the real  
 22 estate man and I'm not. So I think I'll back out of the

1 deal."

2 So I got my \$100,000 back and reduced the loan which  
 3 amounted to \$400,000 on the Holman Acres back down to  
 4 \$300,000. And I understand that Mr. Wilson did, in fact,  
 5 lend the \$400,000 out of his own pocket to McDougal and he  
 6 secured it with the property. And that ultimately the  
 7 FSLIC or RTC or whoever paid off the loan. The --

8 Since I never received my commission, as you know, I  
 9 later sued Madison. And I was flabbergasted in the suit  
 10 to learn what had actually transpired. That the lawyer  
 11 representing FSLIC, her only motive, I guess, was to trap  
 12 me, so to speak. She asked the Madison controller, "How  
 13 much commission on this property -- on the sale of the  
 14 property, how much commission did Jim McDougal make?" And  
 15 he said, "Ten percent." Said, "How much commission did  
 16 Susan McDougal make?" He said, "Ten percent." This is  
 17 all in court here, court records. Said, "How much money  
 18 does John Latham make?" Said, "Ten percent." "How much  
 19 money did Susan McDougal's brothers make?" One time or  
 20 other -- one of the other, "They each made 10 percent."  
 21 "How much money did Seth Ward make?" "Nothing." I never  
 22 got a dime. And so I wasn't part of any of their scheme.



1 And I never colluded. And I've been accused of everything  
2 imaginable on -- in these hearings.

3 One Senator or somebody said, "I wasn't smart enough  
4 to draft an agreement. I was just a college dropout." As  
5 a matter of fact, our country was at war and I quit  
6 college to join the service. After the war, I had an  
7 opportunity to stay in the service and I did. Now, maybe  
8 -- maybe I'm not smart enough to write that agreement,  
9 according to the Senator or whoever made that remark. But  
10 I started my own business from -- literally from scratch.

11 Q. This was after you left the service?

12 A. After I left the service. And at one time I hired  
13 approximately 1,000 people.

14 I'm not familiar with that Senator's military record  
15 or his business record. I apologize for having made that  
16 comment, but I was deeply offended when I heard that on  
17 television.

18 Q. This is your opportunity to tell your story, Mr.  
19 Ward. So feel free.

20 A. Now, I've kind of recited to the best of my ability  
21 everything that transpired in the transaction with Madison  
22 and the Industrial Development Company. I can anticipate

1 you have several other questions.

2 MR. COLE: Why don't we take a break.

3 MR. GIUFFRA: Let's take a break right  
4 now.

5 (A recess was had.)

6 EXAMINATION

7 BY MR. GIUFFRA:

8 Q. Mr. Ward, what was -- when did you first learn that  
9 Mr. McDougal structured the transaction with you having  
10 purchased part of the IDC property in order to avoid the  
11 investment limitation on the amount of money that Madison  
12 Guaranty could invest in Madison Financial?

13 A. I never learned that. I never had any knowledge, as  
14 I stated previously, of their financial structure.

15 Q. Did there come a time when you learned that the  
16 transaction, after the fact, had been structured as it was  
17 in order to avoid this limitation?

18 A. Madison Guaranty Savings & Loan --

19 Q. Yeah.

20 A. -- or Madison Financial?

21 Q. Either one.

22 A. Well, yeah, later -- I never knew that Madison



1 Guaranty had a problem. But I learned that Madison  
2 Financial had a problem when I told you they wanted to  
3 borrow \$400,000.

4 Q. But did anyone tell you that they needed the \$400,000  
5 because of this direct investment regulatory limitation?

6 A. No. I was told that he needed to borrow the money to  
7 keep their ratio, I was told, of loan versus assets or  
8 whatever in line.

9 Q. When did you first learn that Mr. McDougal had  
10 structured the purchase of the IDC property as he did in  
11 order to avoid the investment limitation restricting  
12 direct investments in Madison Financial to 6 percent of  
13 Madison Guaranty's assets?

14 A. I say when I listened to it on the Senate Hearing  
15 Investigation.

16 Q. So you first you heard of this 6 percent limitation  
17 was this past -- you know, in the last few months?

18 A. I had never heard of it before.

19 Q. So no one ever discussed the 6 percent limitation  
20 with you --

21 A. No, never.

22 Q. -- back in 1985 or '86?

1 A. Never.

2 Q. Never came up?

3 MR. COLE: And Mr. McDougal never  
4 mentioned that limitation to you when you were  
5 discussing --

6 A. Never mentioned it to me. Neither did anybody else.

7 Q. (BY MR. GIUFFRA) Now, let's turn to the Rose Law  
8 Firm. You testified that you knew -- you know Mrs.  
9 Clinton?

10 A. Yes.

11 Q. And you've known her since probably like 1975?

12 A. Approximately.

13 Q. And do you think that if Mrs. Clinton had worked with  
14 you while you were at Madison you would recall that now?

15 A. I don't recall her working with them.

16 Q. You don't recall Mrs. Clinton ever working with you  
17 while you worked at Madison Guaranty?

18 A. I don't recall. I know -- I've seen the billings. I  
19 don't recall any of them. I've even seen the handwritten  
20 note addressed as Seth Ward. I don't recall having  
21 received it.

22 Q. This is the handwritten note that Mrs. Clinton --

- 1 A. On the beer joint.  
2 Q. -- that Mrs. Clinton sent to you?  
3 A. Well, I don't recall having ever received it.  
4 Q. Do you ever recall discussing any legal research with  
5 Mrs. Clinton that Rose was performing for Madison?  
6 A. That was -- in her billing?  
7 Q. Yeah.  
8 A. She never did.  
9 Q. She never discussed it with you?  
10 A. Never. That I would have remembered, because I knew  
11 absolutely nothing about Madison's financial structure.  
12 And if she -- and not only that, there would have been no  
13 reason for it because I wasn't an officer of the company.  
14 I wasn't a full-time employee. And as I've told you here  
15 before repeatedly, I knew nothing about their financial  
16 structure.  
17 Q. Did you ever discuss with Mrs. Clinton anything  
18 having to do with a brewery on the Castle Grande property?  
19 A. I remember discussions on the brewery, but not with  
20 her.  
21 Q. Do you think you would recall having discussions with  
22 Mrs. Clinton about a brewery on the Castle Grande
- 

- 1 property?  
2 A. I don't believe I discussed it with her.  
3 Q. You don't believe you did.  
4 A. No, I don't.  
5 Q. You're fairly certain of that?  
6 A. That note -- looking at that note, one might assume  
7 that I must have. But I don't remember her -- I don't  
8 remember having received the note.  
9 Now, I'm not calling Mrs. Clinton a prevaricator. I  
10 am saying that I do not remember such a discussion. I  
11 will say that she never, ever talked to me about stock  
12 options in Madison --  
13 MR. COLE: The stock option in Madison  
14 Bank; is that what you said?  
15 A. Yes.  
16 Q. (BY MR. GIUFFRA) The option on the Holman Acres  
17 property?  
18 A. Huh?  
19 Q. The option on the Holman Acres property?  
20 A. I never talked to her about it.  
21 Q. Okay. So the option agreement that was drafted which  
22 will allow you --

1 A. I saw the option. I didn't know who drafted it.

2 MR. COLE: Why don't we show Mr. Ward that  
3 document so that it's clear for the record what we're  
4 talking -- because there are two -- there are two versions  
5 of that, Mr. Ward, and we wanted to ask you what you  
6 remember, if anything, about the two different versions?

7 A. I remember that they wanted an option for \$400,000  
8 and they paid me \$1,000 for it.

9 MR. COLE: Let me -- here are two copies,  
10 and they're different -- slightly different. One is  
11 numbered SW-070 through, the last page being, 074. And  
12 the other one, if you'll let me look or let Mr. Giuffra  
13 look, is SW-063 through, the last page being, 068. And in  
14 one, the legal description on the first page -- and I  
15 won't read the entire legal description. But it carries  
16 over to the second page, and it says, "6.67 acres." In  
17 the other one, the legal description reads -- the other  
18 one being the one the first page of which is 063, reads,  
19 "Parts of Tracts 27 and 28, Holman Acres, Pulaski County,  
20 Arkansas."

21 Do you recall anything about the preparation of these  
22 documents?

1 A. No, I do not. I do know that -- because I discussed  
2 this once before. That they -- when they prepared it, the  
3 -- I'm looking for the 6.3 acres.

4 MR. COLE: If you turn the page, sir, at  
5 the top you'll see the last line of the legal description  
6 says 6.66 acres.

7 A. On the north side of 145th Street was a building  
8 approximately 60,000 square feet. And there was a  
9 clothing company, a large company out there. And I can't  
10 recall its name, but it's a well-known company. And they  
11 had leased this building for an auxiliary warehouse.

12 MR. COLE: By Levi Strauss?

13 A. Levi Strauss. And I was shown this before. And it  
14 determined that they had the legal description of the Levi  
15 Strauss building as the 6.66 acres.

16 MR. COLE: And when you say "they" had the  
17 legal description as the Levi Strauss building, who is the  
18 "they" that prepared the document?

19 A. I don't know.

20 MR. COLE: Was it prepared at Madison  
21 Guaranty?

22 A. I don't know.



1 MR. COLE: Do you recall whether Mr.  
2 Denton was involved in the preparation of this document?

3 A. I don't know. I would doubt that he would have been.

4 Q. (BY MR. GIUFFRA) And you don't recall ever  
5 discussing either of these two option agreements with Mrs.  
6 Clinton?

7 A. I do not.

8 Q. Do you think you would remember discussing these two  
9 option agreements with Mrs. Clinton had you done so?

10 Well, you knew Mrs. Clinton, right?

11 A. I did know Mrs. Clinton. I do not -- I do not recall  
12 discussing it with her. Now, I may have. I'm not here to  
13 call her a prevaricator. But I will say that I do not  
14 recall.

15 MR. COLE: Mr. Ward, let me ask you a very  
16 basic question about these documents. This is an  
17 agreement -- an option agreement between yourself and  
18 Madison Financial Corporation; is that correct?

19 A. That's right.

20 MR. COLE: So which party prepared the  
21 agreement; did you prepare the agreement?

22 A. I did not prepare the agreement.

1 MR. COLE: So someone on the other side?

2 A. Somebody on the other side of the fence did.

3 MR. COLE: And you don't know who?

4 A. And I don't know who.

5 MR. COLE: You don't know whether it was  
6 an employee of Madison or a --

7 A. I do not know.

8 MR. COLE: -- lawyer working for Madison,  
9 you don't know?

10 A. The way it's written and the way it's paged here,  
11 it's got my initials. I guess it's intended to be my  
12 initials. I don't know.

13 Q. (BY MR. GIUFFRA) And the reason that there are two,  
14 if I understand your testimony correctly, is that the  
15 legal description is incorrect in the document, the first  
16 page of which is 070 that refers to 6.667 --

17 A. That's right.

18 Q. That was an incorrect legal description?

19 A. That's right.

20 Q. And so the document was redone?

21 A. Apparently.

22 Q. And the property that was intended to be covered is



1 the Holman Acres property that's referenced on page 063?

2 A. Yeah. As I said, they offered me \$1,000 for the  
3 option. I don't know who -- who detected the difference.  
4 It may have been me.

5 Q. By, "the difference," you mean that the legal  
6 description was incorrect?

7 A. That's right. It could have been me or it could have  
8 been -- I don't know who it was. This was a long time  
9 ago.

10 Q. Let me point something else out to you, if I could,  
11 about these documents. If you look at the document in  
12 which the legal description is incorrect, showing the  
13 6.667 --

14 A. Yes.

15 Q. -- there's a number at the bottom, a code number in  
16 the lower right corner that says, "0190G." If you look at  
17 what I believe to be the second agreement, based on your  
18 testimony, in which the property description is corrected  
19 and it refers now to the Holman Acres property on page  
20 063. The second page -- the first and second page have no  
21 code number. And then on the third page, which is  
22 identical in appearance to the third page of the first

1 document numbered 072 --

2 A. Looks like it was rewritten, doesn't it.

3 Q. It looks like the first two pages were retyped and  
4 then the pages three and on were not -- were unchanged.  
5 Does that refresh your recollection at all?

6 A. It doesn't refresh my recollection at all. But I  
7 agree with you, that's what it looks like.

8 Q. And what about the, what appears to be, initials on  
9 what I understand to be the final agreement, the one that  
10 refers to the Holman Acres property, do you -- I realize  
11 they don't copy very well. But the first two pages, the  
12 pages that were changed are initialed. Is that your  
13 initial?

14 A. I don't think so.

15 Q. The document -- the agreement is signed, if you go to  
16 the signature page. Is that your signature, "Grantor,  
17 Seth Ward?"

18 A. That's right.

19 Q. And do you recognize the signature beneath Madison  
20 Financial Corporation?

21 A. I think that's John Latham, I think.

22 Q. And then turning back to the first two pages. Is

1 that your initials and Mr. -- it appears to be an "SW" and  
2 a "JL."

3 A. It appears to be that, yes.

4 Q. So, while you don't know who prepared the first draft  
5 or the first copy of this agreement, it appears that it  
6 was prepared incorrectly with an incorrect legal  
7 description. The first two pages were corrected to refer  
8 to the Holman Acres property. Those changed pages were  
9 initialed by yourself and Mr. Latham?

10 A. That's what it appears to be.

11 Q. Do you remember anything further that could --

12 A. No, I do.

13 Q. And you remember no involvement by Mrs. Clinton in  
14 the preparation of these documents?

15 A. I do not remember Mrs. Clinton being involved.

16 Q. Why don't we turn to the billing records, sir. Have  
17 you seen these Rose Law Firm billing records before?

18 A. Yes, I have.

19 Q. Okay. Let's just make sure we have it on the record.  
20 They're Bates numbered DKSNN 28928 through DKSNN 29043. And  
21 what I'd like you to do is we'll go through each of the  
22 pages where there's a post-it note on the right-hand

1 corner and then we'll ask you whether you can recall what  
2 occurred on the page.

3 MR. COLE: Why don't we read the number.

4 Q. (BY MR. GIUFFRA) And we'll read the page as you get  
5 up to it.

6 All right. This first page which references you, sir  
7 -- first of all, do you have any reason to believe that  
8 these records are inaccurate?

9 MR. COLE: Other than the fact that you  
10 don't recall the discussions that are referenced therein.

11 A. I do not recall.

12 Q. (BY MR. GIUFFRA) I mean, you don't recall -- let's  
13 go to the first -- the first one is DKSNN 28979, which is  
14 this page right here. Now, it says on -- this is a bill  
15 of the Rose Law Firm; would you agree, sir?

16 A. Yes.

17 Q. All right. Do you recall ever seeing any bills of the  
18 Rose Law Firm --

19 A. No.

20 Q. -- when you were at Madison?

21 A. No.

22 Q. And you -- have you ever seen these documents before?

- 1 A. I've seen similar documents. Not these. I was shown  
2 these by the -- by the --  
3 Q. Mrs. Clinton's lawyer, Mr. Kendall?  
4 A. I was shown it by him and also by --  
5 Q. Independent Counsel?  
6 A. Independent Counsel.  
7 Q. Was that the first time you recall seeing these  
8 documents was when you saw them with the Independent  
9 Counsel?  
10 A. Yes.  
11 Q. And then you subsequently met with Mr. Hubbell -- I  
12 mean, with Mr. Kendall?  
13 A. Yes.  
14 Q. And that was after you met with the Independent  
15 Counsel?  
16 A. After I met with Independent Counsel.  
17 Q. On the first bill, this is 28979 --  
18 A. I have to tell you at this point the same thing I  
19 told the Independent Counsel, as I told Mr. Kendall, I'm  
20 not familiar with -- I don't recall any of them.  
21 Q. You don't recall any of the conversations or any of  
22 the meetings that are referenced within these bills?
- 

- 1 A. I don't recall any of them.  
2 MR. COLE: But, Mr. Ward, in terms of when  
3 you saw these records or copies of these records, the  
4 first time you saw them was when you were shown them by  
5 the Independent Counsel or someone on the Independent  
6 Counsel's staff?  
7 A. Right.  
8 MR. COLE: Was that last month in January  
9 of this year, 1996?  
10 A. I think it was. Yes, sir.  
11 MR. COLE: And then you're certain that it  
12 was after that that Mr. Kendall --  
13 A. Yes. I told Mr. Kendall -- he had the -- he opened  
14 up this briefcase and was going to show me these billings.  
15 I said, "Well, I can tell you the same thing I just  
16 finished telling the Independent Counsel, I don't recall  
17 having ever seen any of them."  
18 Q. (BY MR. GIUFFRA) Okay. Let's focus just on what's  
19 referenced in the billing records.  
20 Now, this first billing record, 28979, indicates that  
21 you would have spoken on 8 -- this would be August 8, 1985  
22 with Mr. Thrash. Now, do you ever recall speaking to Mr.



- 1 Thrash?
- 2 A. No, I do not.
- 3 Q. Do you recall speaking to -- the reference is,
- 4 "Telephone conferences with Seth Ward and Charlie Cook.
- 5 Make changes in documents." Do you remember Charlie Cook?
- 6 A. Now, Charlie Cook was the -- I believe he was the man
- 7 -- VP or president of the -- of First Commercial Bank.
- 8 Q. So you recall speaking to Mr. Cook?
- 9 A. Remember that earlier on I told you I met with Mr.
- 10 Brick Lyle, and I couldn't remember the man's name at that
- 11 time, an officer of the First Commercial Bank. Well, I'm
- 12 quite certain that it was Mr. Cook.
- 13 MR. COLE: And that was one of the banks
- 14 that held the mortgages --
- 15 A. Yes.
- 16 MR. COLE: -- or the notes on the IDC
- 17 property?
- 18 A. Yes, sir.
- 19 Q. (BY MR. GIUFFRA) Okay. Then later on down, where
- 20 it's marked in yellow, on August 19, 1985 there's a
- 21 meeting with Seth Ward and Ace Wilson and then Charlie
- 22 Cook. Do you recall meeting with an Ace Wilson?

- 1 A. I don't know Ace Wilson.
- 2 Q. How about -- it looks like "B-C-E Wilson," maybe. Do
- 3 you recall anyone by the name of Wilson who was involved
- 4 in the acquisition of the IDC property by Madison?
- 5 A. The only one I know would be Robert Wilson, who was
- 6 with -- he was the executive vice president of Union
- 7 National Bank.
- 8 Q. That may well be who it is. It may look like Bob
- 9 Wilson. Do you remember speaking with Bob Wilson?
- 10 A. Yes, I remember meeting with Bob.
- 11 Q. Okay. He was -- this was another bank that held part
- 12 of the mortgage on the IDC property?
- 13 A. Yes, three banks held the mortgage.
- 14 Q. Okay. And his bank, again, was?
- 15 A. Union.
- 16 Q. Okay. Then the next entry August 20, 1985, another
- 17 telephone call with you and Mr. Thrash. You don't
- 18 remember that phone call?
- 19 A. I don't remember it.
- 20 Q. But you think from the fact that you -- you do recall
- 21 speaking with Mr. Wilson and you do recall speaking with
- 22 Mr. Cook sometime in August of 1985?



1 A. I remember talking with him, yes. Whether it was  
2 this date or not, I don't know.

3 MR. COLE: Before we leave this page, Mr.  
4 Ward, if you look in the upper left corner under "matter,"  
5 what does it say below matter?

6 A. IDC.

7 MR. COLE: And is that what the property  
8 was known as at the time?

9 A. Yes, Little Rock Industrial Development Company.

10 MR. COLE: And in the discussions that are  
11 referenced here, the transaction would have been described  
12 at that time as the IDC property?

13 A. That's right.

14 MR. COLE: Was anyone calling it Castle  
15 Grande at that time?

16 A. No.

17 Q. (BY MR. GIUFFRA) When did you first hear anyone call  
18 the property Castle Grande?

19 A. Well, after McDougal acquired the property south of  
20 145th Street. He had a development a few miles south of  
21 there called Maple Creek.

22 MR. COLE: That was another residential

1 development?

2 A. It's another residential development. And he said he  
3 was going to put in a residential development, either  
4 mobile homes or pre-built homes on 145th Street. And he  
5 -- I don't know if he was talking to me or talking to  
6 somebody else. But, anyhow, that's when they mentioned it  
7 was going to be named Castle Grande.

8 MR. COLE: I have a question about that,  
9 because Mr. Giuffra asked you some questions about how Mr.  
10 McDougal structured the transaction and whether --

11 A. Who asked me the question?

12 MR. COLE: Mr. Giuffra, across the table  
13 from me, asked you some questions about how Mr. McDougal  
14 structured the transaction and whether you had any  
15 understanding that that was because of the 6 percent  
16 limitation on Madison's investments and you said you did  
17 not?

18 A. I had no knowledge of it at all.

19 MR. COLE: Was the structure of the  
20 transaction done in the way it was so that Mr. McDougal  
21 could develop the property south of 145th Street for  
22 residential purposes and the property that you purchased

1 north of residential -- I'm sorry, north of 145th Street  
2 could be resold as industrial property; was that --

3 A. It would be resold anyway we can sell it.

4 MR. COLE: But that was the business  
5 reason behind the division of the property between north  
6 and south of 145th Street?

7 A. I don't think so. I think that the -- I think that  
8 he came up with that for two reasons: I felt like that he  
9 felt that that property was worth about \$600,000, and that  
10 was what he said he could afford. He didn't say anything  
11 about limitation. But, also, it afforded him an  
12 opportunity to put a roadway from 145th Street south into  
13 the International Paper Company property.

14 MR. COLE: Which was the other property  
15 that he had an interest in?

16 A. Which is the property south of there which he wanted  
17 to develop but was landlocked. There were no roads going  
18 to it.

19 Q. (BY MR. GIUFFRA) Sir, let me show you a map that we  
20 have received.

21 Now, did you ever see a feasibility study that Mr.  
22 McDougal had prepared for the Castle Grande property?

---

1 A. No.

2 Q. Never saw one?

3 A. No.

4 Q. Not at the time of the acquisition?

5 A. No.

6 Q. Not later?

7 A. No.

8 Q. Okay. Now, this is a map from the feasibility study  
9 showing the entire property. And at the top is the  
10 portion that you purchased, which was north of 145th  
11 Street, correct?

12 A. Uh-huh.

13 Q. And then south was the part of the property -- south  
14 of 145th Street was the portion that Mr. McDougal, through  
15 Madison Financial, purchased?

16 A. This 2 and 4, it's black, but it's not me.

17 Q. These would be separate parcels --

18 A. That wasn't mine.

19 Q. Okay. This would be parcels marked 2 and 4, which  
20 say, "Jim Guy Tucker" and "Master Developers, Inc.," that  
21 was not part of the portion that you purchased?

22 A. No.

- 1 Q. Okay. The entire property all the way around, was  
2 that known as Castle Grande or just the part that Mr.  
3 McDougal --  
4 A. Just the part that Mr. McDougal developed along here.  
5 MR. COLE: That would be the part south of  
6 145th Street --  
7 A. Yes.  
8 MR. COLE: -- where you've just pointed  
9 to?  
10 A. Not all the property south of 145th. Just that area  
11 that he was developing.  
12 MR. COLE: Just the area --  
13 A. See, he was fronting the development on 145th Street.  
14 He didn't build any roads in there.  
15 Q. (BY MR. GIUFFRA) This is where he has trailer homes?  
16 MR. COLE: Modular homes?  
17 Q. (BY MR. GIUFFRA) Modular homes?  
18 A. Yes, and he didn't build any roads in any of the rest  
19 of the property. He had them facing 145th Street.  
20 MR. COLE: And that was -- that area, if  
21 we are looking at this map, in the center just south of  
22 145th Street is what was called Castle Grande?
- 

- 1 A. That's right.  
2 MR. COLE: And that would not include this  
3 area north of 145th Street --  
4 A. No, would not.  
5 MR. COLE: -- that's shown as Seth Ward?  
6 A. It would not.  
7 MR. COLE: And where's the Holman Acres  
8 property on this map?  
9 A. Right here (indicating).  
10 MR. COLE: So it's in the northwest corner  
11 of --  
12 A. Northeast.  
13 MR. COLE: -- of the intersection between  
14 145th Street and Highway 65 south?  
15 A. Yes.  
16 Q. (BY MR. GIUFFRA) Now, let's turn to the next Rose  
17 Law Firm bill, which is 28980. And this bill indicates  
18 that you spoke to Mr. Thrash, looks like September 30,  
19 '85. And was there a man named Mr. Bowen who was involved  
20 in this transaction?  
21 A. Yes, he's part of the staff of Beach Abstract.  
22 Q. Okay. There's a telephone conference with Mr. Bowen

1 of Beach Abstract. And then there's another conference on  
2 October 7th with Mr. Thrash and yourself and then a Peggy  
3 Rogers. Was Peggy Rogers involved in this transaction?  
4 A. I don't know Peggy Rogers.  
5 Q. Okay. Then on the 14th there's another call between  
6 -- there's another conference between Mr. Thrash and it  
7 looks like Daryl Dover. Do you remember Mr. Dover?  
8 A. I don't remember a Mr. Dover.  
9 Q. You don't remember Mr. Dover. And then there's a  
10 Mr., looks like, Foolrs?  
11 A. Who?  
12 Q. F-o-o -- F-o-o-l-r-s, Foolrs. You don't recall a  
13 person by that name?  
14 A. No.  
15 Q. Then on the -- it looks to be the 7th of October --  
16 MR. COLE: Just a moment. On the entry  
17 for the 4th, it also says, "attend closing."  
18 Q. (BY MR. GIUFFRA) Do you remember going to closing,  
19 sir?  
20 A. I went to the closing.  
21 Q. Do you remember seeing Mr. Thrash at closing?  
22 A. No. And I told you earlier, I didn't know Mr.

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1 Thrash. And if he were there, I probably confused him  
2 with some of the staff of Beach Abstract.  
3 MR. COLE: Was Mr. Dover at the closing?  
4 A. I don't know Mr. Dover.  
5 MR. COLE: You don't Mr. Dover either.  
6 His name is shown here as well.  
7 Q. (BY MR. GIUFFRA) Okay. The next entry, October 7,  
8 '85, says, "Meeting with Seth Ward. Review Bill of  
9 Assurances." Do you remember an issue coming up involving  
10 a Bill of Assurance?  
11 A. It could have, but I don't remember it. I'm sorry.  
12 Q. Do you know what a Bill of Assurance is?  
13 A. Yes, I do.  
14 Q. What is a Bill of Assurance?  
15 A. Well, they place a limitation on what you can use the  
16 land for.  
17 Q. Do you remember an issue arising concerning the  
18 placement of mobile homes on the Castle Grande property?  
19 A. I don't, and that wouldn't have been my problem.  
20 Q. Let me show you a document that bears Bates No.  
21 SW1-028, and it's a memo from Jim McDougal to you, dated  
22 October 7, 1985, which is the same day as this entry in



1 the Rose Law Firm billing records. And this says --

2 MR. COLE: And just for the record,  
3 because the camera won't pick this up, these billing  
4 entries are all by Mr. Thrash that we're looking at here,  
5 including the one on October 7th.

6 Q. (BY MR. GIUFFRA) Correct. And it says this is from  
7 Mr. McDougal to you. And I'll read the second paragraph.  
8 "Apparently there is some opposition from existing  
9 landowners at 145th Street to the placement of mobile  
10 homes on our property. I think their opposition merely  
11 rises from ignorance as to the plans. However, we do need  
12 to check to see if there is an existing Bill of Assurance  
13 on the property which would prohibit our planned use.  
14 Further, it is my understanding that the Planning  
15 Commission's regulations require that adjoining landowners  
16 be given notice by registered mail of a planned  
17 subdivision. You should ask our engineer about this  
18 procedure."

19 Do you ever remember discussing any of that with Mr.  
20 McDougal or getting this memo?

21 A. I could have. I'm not denying I didn't. I don't  
22 remember.

1 I know this much, that it was the -- the property was  
2 beyond the five mile limit.

3 Q. From Little Rock?

4 A. From Little Rock. And so it wouldn't be subject to  
5 the Planning Commission.

6 Q. Do you remember any discussion of a Bill of  
7 Assurance, though?

8 A. No. But I have to point out that this is over ten  
9 years ago.

10 Q. I understand, sir. Let me show you another entry.  
11 This bears Bates No. 29000. And there's an entry on  
12 August 14, 1985 by a man named Thomas. Do you remember a  
13 lawyer at the Rose Law Firm by the name of Thomas, last  
14 name Thomas?

15 A. No.

16 Q. D. Thomas, having a telephone call with you and also  
17 with Ms. Dover -- Mr. Dover's secretary; you wouldn't  
18 recall that at all?

19 A. I don't know Mr. Dover.

20 Q. Okay.

21 A. It may have --

22 Q. It may have happened, you just don't --

1 A. I may have had such a conversation.

2 Q. Okay.

3 MR. COLE: What were the dates of those  
4 entries?

5 MR. GIUFFRA: August 14, 1985.

6 MR. COLE: And those were all entries by  
7 Mr. Thomas at the Rose Law Firm?

8 MR. GIUFFRA: Correct.

9 Q. (BY MR. GIUFFRA) Let's turn to page 29002. And  
10 there's an entry for Mrs. Clinton right here, which is  
11 marked in yellow, on November 26, 1985 for one hour, and  
12 it says, "Conference with Seth Ward; conference with T.  
13 Thrash; conference with Webb Hubbell."

14 Do you remember participating in any conference with  
15 Mrs. Clinton?

16 A. I do not.

17 Q. Do you remember ever discussing -- you did speak to  
18 Mr. Hubbell about this transaction, right?

19 A. If I had spoken to with Mr. Hubbell, I think I would  
20 have remembered. I do not recall.

21 MR. COLE: Well, let's be clear here, and  
22 particularly for your benefit, Mr. Ward. As I read this

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1 time entry, it does not indicate that you speak with Mr.  
2 Hubbell. It indicates that Mrs. Clinton spoke with Mr.  
3 Hubbell. These are her time records, and they show first  
4 a conference with Mr. Ward, and then there's a semicolon,  
5 they show a conference with Mr. Thrash, and then there's  
6 another semicolon and it shows a conference with Mr.  
7 Hubbell. That's three things that she recorded that took  
8 place in one hour on November 26, 1985. So there's no  
9 reason to believe that your memory is faulty, sir. These  
10 records don't show a discussion between you and Mr.  
11 Hubbell.

12 Does that help? Do you follow what I was pointing  
13 out to you there?

14 A. I appreciate your help. But I also -- I don't recall  
15 a conference with Mrs. Clinton.

16 Q. (BY MR. GIUFFRA) On any occasion?

17 A. I don't recall a conference with her on any occasion.  
18 And I'm not saying that it didn't happen. But I will say  
19 again, when there -- somewhere here there's a billing  
20 about her discussing the stock structure or --

21 Q. The option agreement.

22 MR. COLE: No, I think what Mr. Ward is

1 referring to -- he said this earlier, and there may be  
2 some confusion about this. Perhaps we should try to clear  
3 it up and find the entry.

4 Q. (BY MR. GIUFFRA) You mean the preferred stock?

5 A. Yes.

6 MR. COLE: That's what I understood him to  
7 be saying. I'm not aware --

8 Q. (BY MR. GIUFFRA) Do you recall any discussion with  
9 anyone, while you were at Madison, of Madison's proposal  
10 to issue preferred stock?

11 A. Never.

12 Q. Okay, sir. The billing records, in fact, don't  
13 indicate that you spoke to Mrs. Clinton about preferred  
14 stock offering?

15 MR. COLE: Not to my knowledge. That's  
16 the question I had. Because he seems to believe that  
17 there's an entry in here that indicates he spoke to Mrs.  
18 Clinton about this.

19 A. Well, I saw one where it said that she spoke to me.

20 Q. (BY MR. GIUFFRA) There's an entry, in fact, the page  
21 we just looked at bearing Bates No. 29002, the time is  
22 billed to stock offering matter, but -- so perhaps that's

---

1 the source of the confusion. Right up here, sir --

2 A. I saw that. I was looking for a number. Because it  
3 seems to me like I remember seeing an itemized bill where  
4 it was discussed.

5 Q. But you don't recall ever speaking to Mrs. Clinton  
6 about the preferred stock offer?

7 A. No, I did not.

8 Q. Let's turn to another entry on the billing records.

9 This is dated 29 -- this is Bates No. 29006. There's an  
10 entry on December 26, 1985, right after Christmas, half  
11 hour, it says, "Conference with Seth Ward," then it has,  
12 "telephone conference with Election Commission."

13 No recollection of speaking to Mrs. Clinton the day  
14 after Christmas in 19 --

15 A. No, I don't. And I'd like to make a comment here, if  
16 I might.

17 MR. COLE: You certainly may.

18 A. Well, I've been shown this before, and I asked,  
19 "What Election Commission are they talking about?" Well,  
20 it seems that south of 145th Street there was a shell  
21 building; that is, just the upright columns and a roof, no  
22 floor, no sidewalk. It was just an unfinished building.



1 One afternoon when I went into the office, McDougal was in  
2 one of the lower offices downstairs visiting with a friend  
3 of his. And he called me back and said, "I'd like you to  
4 meet" so and so, I forget his first name, "Lyons."

5 Q. (BY MR. GIUFFRA) Bill Lyon?

6 A. I don't remember his first name, but his name was  
7 Lyons. And he said, "What do you think of having a  
8 brewery in that shell building?" Well, what in the world  
9 would I think, one way or the other. If they want to have  
10 a brewery in that shell building, I could care less. And  
11 he said that, "Mr. Lyon already has a brewery." And I  
12 said, "Where?" And he said, "In a warehouse down here on  
13 Cantrell Road." I couldn't imagine a brewery being down  
14 there. He said, "We're thinking of putting it -- moving  
15 it out here in that shell building and having a brewery  
16 and tavern." And he, again, asked me what I thought. I  
17 said, "I don't know." It wasn't my property. Well, that  
18 afternoon, as I went home, I got curious. I just couldn't  
19 believe that there was a brewery down -- and a warehouse  
20 off of Cantrell. And I stopped where he -- by the way,  
21 I'll interrupt myself. He asked me if I'd show him that  
22 building and I did. And that's when he explained to me

1 where the brewery was.

2 MR. COLE: So you did show Mr. Lyon the  
3 building?

4 A. I showed Mr. Lyon the shell building. And driving  
5 home I went by the warehouse and went in. And sure  
6 enough, there was a brewery in there. It wasn't very much  
7 space. I would say 30 feet by 60 feet. It had a bunch of  
8 tanks and what not in there and white plastic pipe. They  
9 were making beer. I asked him, "What was the name of the  
10 beer?" It didn't have a name. "Well, where did he sell  
11 it?" He said, "Well, he sold it at taverns. They used it  
12 as house beer."

13 Well, I do recall later on, maybe a week or two weeks  
14 or three, whatever, I saw McDougal. I said, "Whatever  
15 happened to your brewery deal?" He said, "Well, the water  
16 wasn't any good out here."

17 On that Election Commission, I was told that the area  
18 where that shell building was located was once in another  
19 county and that county has since been absorbed into  
20 Pulaski County. But while it was in a previous county,  
21 they held an election whether they wanted to be wet or dry  
22 and they voted it dry. And --



1 MR. COLE: So there was a legal issue as  
2 to whether or not that location was wet or dry?

3 A. And I have later received a handwritten note from  
4 Hillary Clinton saying that they could have a brewery  
5 there. And if I received it, fine. I didn't remember  
6 seeing it, but it was addressed to me. I must have  
7 received it and passed it on to Bill Clinton. I mean,  
8 to --

9 Q. (BY MR. GIUFFRA) Jim McDougal?

10 A. -- Jim McDougal. So that's my involvement with the  
11 -- and to the full extent of me and the so-called brewery  
12 and this Election Commission. I don't recall ever  
13 discussing --

14 Q. The brewery with Mrs. Clinton?

15 A. No, I do not. I must have, because she gave me that  
16 -- she gave me that handwritten note, and it was addressed  
17 to Seth. And I had forgotten it, and I still don't  
18 remember getting it, but I must have. And I passed it on  
19 to -- and if I did, I passed it on to Jim McDougal.

20 Q. All right. Let's turn to the next entry --

21 MR. COLE: Let's go off the record for a  
22 moment, and maybe see if we can find the document that Mr.

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1 Ward is referring to.

2 (Off-the-record.)

3 Q. (BY MR. GIUFFRA) Mr. Ward, we haven't been able to  
4 locate the handwritten note, other than the document that  
5 Mr. Cole showed you, which says, "Rick, I visited with  
6 Seth Ward and gave him a copy of your memo and with Ken  
7 Shemin. Thanks, Hillary."

8 MR. COLE: And at the bottom it says?

9 Q. (BY MR. GIUFFRA) "Charge Madison Guaranty, IDC."  
10 There's another document which we have, which is Bates  
11 numbered 90. It's a memo from Jim McDougal to Jim Guy  
12 Tucker, dated February 7, 1986, which says, "It looks like  
13 our township is dry. Attached is a legal opinion Seth got  
14 from his attorney."

15 A. You just showed me that.

16 Q. Yeah.

17 A. I think that that refers to the handwritten note that  
18 I said Mrs. Clinton gave to me. I don't remember -- I  
19 don't remember receiving the handwritten note, but I must  
20 have gotten it. And if I did, I passed it on to Jim  
21 McDougal.

22 MR. COLE: And with regard to the other

1 handwritten note that Mr. Giuffra just showed you where it  
2 says -- written by Mrs. Clinton, that says, "Rick, I  
3 visited with Seth Ward and gave him a copy of your memo."  
4 You don't recall talking with Mrs. Clinton about --

5 A. No, I don't.

6 MR. COLE: -- any legal work she did?

7 A. No, I do not.

8 Q. (BY MR. GIUFFRA) Let me show you another document,  
9 which bear the Bates No. 90, then it goes -- it ends at  
10 RLF 2298. It's a memo from Richard Donovan to Hillary  
11 Clinton, dated January 3, 1986, and the "re" is "Madison  
12 Guaranty Savings & Loan, Wet/Dry Issue." Do you remember  
13 getting a long memo like that, a long, legal memo?

14 A. No, I don't remember. I don't know Richard Donovan.  
15 I'm sorry. I'd like to be able to help you.

16 MR. COLE: You're doing fine.

17 Q. (BY MR. GIUFFRA) Let's turn to the next entry. This  
18 is a -- we have a -- on November 14, 1985, we have a half  
19 hour call between Mrs. Clinton and yourself regarding  
20 purchase from Brick Lyle.

21 MR. COLE: What page are you on, Mr.  
22 Giuffra?

1 MR. GIUFFRA: I'm at 29008.

2 Q. (BY MR. GIUFFRA) Do you recall that conversation?

3 A. I don't recall the conversation. I purchased the --  
4 I negotiated with Brick Lyle and Mr. Cook and --

5 Q. So you think --

6 A. Which we discussed earlier.

7 Q. Is it possible you might have spoken to Mrs. Clinton  
8 about the actual purchase of the property from Brick Lyle,  
9 looking at this billing entry?

10 A. It's possible. I don't remember.

11 MR. COLE: Let's take a moment to focus on  
12 the date of the entry, Mr. Ward. The date of that entry  
13 is November 14, 1985. Do you see where I'm pointing  
14 there?

15 A. Yes.

16 MR. COLE: And your purchase closed on  
17 October 4, 1985, from the documents that we showed you  
18 previously; is that correct?

19 A. Yes.

20 MR. COLE: And if you read this, it says,  
21 "Conference with Seth Ward regarding purchase from Brick  
22 Lyle." Is it also possible that this entry is just

1 describing a discussion that Mrs. Clinton had with you  
2 about what you had done on October 4th; that is, the  
3 property you had previously purchased?

4 A. I'd say anything it possible.

5 MR. COLE: I thought you might say that.

6 Q. (BY MR. GIUFFRA) All right. Mr. Ward, let's look at  
7 the next entry. That's November 20, 1985. Mrs. Clinton  
8 bills an hour.

9 MR. COLE: Same page.

10 Q. (BY MR. GIUFFRA) And it says, "Conference with S.  
11 Ward: Conference with Webb Hubbell." Again, you don't  
12 recall that conversation?

13 A. No, sir. I do not.

14 Q. And you don't recall ever meeting with Mrs. Clinton  
15 and yourself and Mr. Hubbell to discuss this transaction?

16 A. I never met with Webb Hubbell at any time during that  
17 deal.

18 Q. Let's turn to the next one.

19 MR. COLE: What was the date on the  
20 memorandum that you showed Mr. Ward a moment ago?

21 MR. GIUFFRA: January 3.

22 MR. COLE: January 3, 1986?

1 MR. GIUFFRA: Yes.

2 MR. COLE: It was about the entries that  
3 we were just looking at. So it was about six weeks later.

4 Q. (BY MR. GIUFFRA) Mr. Ward, this is a bill of the  
5 Rose Law Firm that's dated January 30, 1986, and it  
6 describes some legal services that were rendered by the  
7 Rose Law Firm in connection with the IDC transaction. And  
8 it says, "Review contract for sale." That's the very  
9 first entry.

10 Now, there was a contract for sale that was prepared  
11 in connection with this acquisition, correct?

12 A. There must have been.

13 Q. And then it says, "Telephone conference with Seth  
14 Ward and Charlie Cook and Daryl Dover --"

15 A. And Bob Wilson.

16 Q. It says, "Alton Bowen at Beach Abstract."

17 A. Yes.

18 Q. Peggy Rogers?

19 A. I don't know her.

20 Q. How about Steve Wade?

21 A. Who?

22 Q. Steve Wade.



- 1 A. I don't know him.
- 2 Q. Okay. And then it says -- did you ever attend an IDC  
3 board meeting yourself?
- 4 A. No.
- 5 Q. Okay. And then they talk about a Title Commitment.  
6 There must have been a Title Commitment. It says, "Review  
7 Title Commitment." Do you recall seeing a Title  
8 Commitment?
- 9 A. No.
- 10 Q. And you did attend the closing, but you don't recall  
11 anybody from the Rose Law Firm being present at the  
12 closing?
- 13 A. There apparently was and I didn't recognize them.
- 14 Q. Okay. Then further on in the bill, it says, "Meeting  
15 for Seth Ward, Bob Wilson and Charlie Cook." But you  
16 don't recall meeting with anybody from the Rose Law Firm?
- 17 A. I don't recall.
- 18 Q. Okay.
- 19 A. I'd like to point out again that this is -- you know,  
20 this is nearly ten and a half years ago.
- 21 Q. That's the difficulty we're having, sir.
- 22 Then it says, "Research on what approvals, permits,

- 1 et cetera are necessary to operate a sewer and water  
2 facilities." Do you recall an issue coming up --
- 3 A. Where are you now?
- 4 Q. "Research on what approvals, permits, et cetera are  
5 necessary to operate sewer and water facilities." Do you  
6 recall that coming up, an issue about operating sewer and  
7 water facilities?
- 8 A. No, I do not. I do recall that I met with Everett  
9 Tucker and his secretary, and I don't know her name, after  
10 we had purchased the property giving me a -- I think it  
11 was on a state form where the IDC assumed the obligation  
12 to provide service to all the people on their lines and  
13 what not. And that we would have to assume that  
14 responsibility. And he signed that over to me. And when  
15 we -- when McDougal sold it to Jim Guy Tucker, I made sure  
16 that Jim Guy Tucker got the same deal and relieved us from  
17 it. Now, that's the only thing I remember about the sewer  
18 and waterworks.
- 19 Q. Let me show you --
- 20 MR. COLE: Could I ask Mr. --
- 21 MR. GIUFFRA: Sure.
- 22 MR. COLE: -- Ward one more question about



1 this document, because I think it may shed light on a  
2 question you previously asked him.

3 Mr. Ward, if you look a couple of lines down farther,  
4 and this is the bill that was sent by the Rose Law Firm to  
5 Madison Guaranty Savings & Loan for legal services  
6 rendered through January 31st, and it says, "Matter No. 5,  
7 IDC." And if you look in the description of the services,  
8 there's an entry that says, "Conferences with Seth Ward  
9 regarding purchase from Brick Lyle and proposed industry  
10 development on site." And if you bear with me, turn back  
11 two pages to the entry that Mr. Giuffra previously asked  
12 you about, where it says, "Conference with Seth Ward  
13 regarding purchase from Brick Lyle," and Mrs. Clinton  
14 billed a half hour. That was her description. That time  
15 entry which is in Mrs. Clinton's time record appears to  
16 match what's in the bill that was sent to Madison  
17 Guaranty, except when the bill was prepared, presumably  
18 by Mrs. Clinton as the billing partner, she added the  
19 words, "regarding proposed industrial development on  
20 site." Does that help refresh your memory as to whether  
21 you might have spoken about industrial development versus  
22 the original purchase?

1 A. It doesn't refresh my memory at all.

2 Q. (BY MR. GIUFFRA) Let's turn to the next page, sir.  
3 This is 29011. And this page indicates that you spoke  
4 with Mrs. Clinton between December 6, 1985 and December  
5 24, 1985 on one, two, three, four, five, seven occasions.  
6 Do you recall any of those conversations with Mrs. Clinton  
7 between --

8 A. I'm not playing games with you.

9 Q. I understand.

10 A. I don't recall any of them.

11 Q. Now, Mrs. Clinton was someone you knew well, though,  
12 in 1985?

13 A. Yes, I knew her well.

14 Q. She was someone whose legal abilities you had high  
15 regard for?

16 A. Well, she was the attorney for our Airport  
17 Commission.

18 Q. Did you used to meet with her on a regular basis when  
19 she was --

20 A. At the Airport.

21 Q. -- at the Airport Commission? Do you think that if  
22 you had spoken to Mrs. Clinton on seven different

1 occasions in a little over two and a half weeks you would  
2 recall it today?

3 MR. COLE: These are telephone  
4 discussions, according to time records, not face to face  
5 meetings, Mr. Ward. If you note, they all say telephone  
6 discussions.

7 A. You know, you'd think so. But I have to -- I have to  
8 be honest with you, I don't remember.

9 Q. (BY MR. GIUFFRA) Okay. Let's turn to another entry.  
10 All right. This one is 29016. And on February 28, 1986,  
11 there's a call for little under an hour with you, Mr.  
12 Ward. Do you recall that?

13 A. Well, it says, "Seth Ward." I don't recall it.

14 Q. Now, Mr. Ward --

15 A. I noticed in the next item she's talking about a  
16 telephone conversation with Jane Dickey regarding port.

17 Q. Do you know what that might refer to?

18 A. I would think the Little Rock -- Arkansas Riverport.

19 Q. Was there any connection between the IDC property and  
20 the riverport?

21 A. No.

22 Q. And was the riverport something that the Airport

1 Commission dealt with?

2 A. No. But --

3 Q. Do you think maybe this is a mistake in the bill?

4 A. I don't think it --

5 Q. There was no port, though, in the IDC property?

6 A. Is this part of -- billed to Madison?

7 MR. COLE: No. That's a time record.

8 It's not part of a bill. You would have to compare this  
9 attorney time record to the bill to see if that time was  
10 billed.

11 A. Jane Dickey was more of a bonding counsel. And I  
12 would imagine they were talking about bonding activity at  
13 the Little Rock Port. I would imagine.

14 MR. GIUFFRA: Could we go off the record  
15 just for one second.

16 (Off-the-record.)

17 Q. (BY MR. GIUFFRA) Mr. Ward, do you recall when the  
18 Castle Water and Sewer transaction closed?

19 A. No, but it would have been --

20 Q. Would it have been in February of --

21 A. You mean, when we purchased it?

22 Q. No. When you sold it to Mr. Tucker's group?

1 A. Well, now, I didn't sell it Mr. Tucker.

2 Q. When Mr. McDougal --

3 A. Mr. McDougal transferred it over to Madison Financial  
4 and he sold it to Tucker.

5 Q. Do you recall when the \$1.15 million note that you  
6 had outstanding was fully paid? Do you recall that? Let  
7 me show you a chronology, which bears Bates No.  
8 2120003171 --

9 MR. COLE: This is something else.

10 Q. -- which says, "Castle Grande Transaction, Seth Ward  
11 and 145th Street." And it indicates that on February 28,  
12 1986, Castle Grande Sewer and Water buys the assets from  
13 Madison Financial Corporation. You don't recall whether  
14 it happened on February 28th?

15 A. Well, I don't understand it when it said, "Castle  
16 Sewer and Water buys the assets from Madison Financial."

17 Q. Does that refresh your recollection that the  
18 transaction occurred?

19 A. I wouldn't have been part of that transaction.

20 MR. COLE: Did you deed -- the properties  
21 that you held north of 145th Street and the utility  
22 properties that were on both sides in the transactions

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1 which they were sold then to third-parties, did you deed  
2 the properties to Madison Financial --

3 A. Yes.

4 MR. COLE: -- so that Madison Financial  
5 could sell them to the third-party?

6 A. That's right.

7 MR. COLE: And that -- may that be the  
8 explanation for why this entry reads, "Castle Sewer and  
9 Water buys assets from Madison Financial?" That would be  
10 consistent with your having deeded the property to Madison  
11 Financial at the time --

12 A. That's right.

13 MR. COLE: -- it was sold; is that right?

14 Q. (BY MR. GIUFFRA) That was an important transaction,  
15 wasn't it?

16 A. What?

17 Q. The transaction whereby Castle Sewer and Water  
18 Company bought the assets of the utility from Madison  
19 Financial, that was an important transaction in the course  
20 of --

21 A. Yes, but I don't understand the -- the -- how that  
22 came about. Seems to me like they were selling



- 1 waterworks. I didn't think waterworks would be buying  
2 anything.
- 3 Q. Let me show you another document. This says, "Pat  
4 Black, Exhibit 3," it's dated 2-5-96. This is a document  
5 that someone from the RTC Inspector General's Office  
6 prepared. It's a chronology. This chronology says that,  
7 "On February 28, 1986, Castle Water and Sewer closes: All  
8 IDC gone except Holman Acres; \$1.15 Ward note paid." "W  
9 note paid," but Ward note paid. Do you recall these  
10 events occurring on February 28, 1986, approximately?
- 11 A. I'm sorry.
- 12 Q. Okay. But on the same date, February 28, 1986, you  
13 have this -- the billing record indicates you spoke with  
14 Mrs. Clinton. Do you know whether you might have spoken  
15 to Mrs. Clinton about either the closing of the Castle  
16 Water and Sewer transaction or the payment of your note?
- 17 A. I have no idea at this point. I'm sorry. I do not  
18 recollect.
- 19 Q. Okay. So you don't know no one way or the other --
- 20 A. Well, I --
- 21 Q. -- whether you might have spoken --
- 22 A. I can't help you on it.
- 

- 1 Q. Okay. Let's turn to the next page, which is 29024.  
2 This is a telephone conference that Mrs. Clinton had on  
3 April 7, 1986 with Mr. Denton.
- 4 Now, what was Mr. Denton's role in the IDC  
5 transaction?
- 6 A. I don't think he was -- had a role. He was the chief  
7 loan officer.
- 8 Q. Some of the loans you had, Mr. Denton acted as the  
9 loan officer on?
- 10 A. That's right.
- 11 Q. Okay. So he would have been aware of the loans that  
12 you had with Madison Guaranty?
- 13 A. Yeah.
- 14 Q. He would have handled the paperwork for you?
- 15 A. He handled the notes on all of them, I think.
- 16 MR. COLE: Which notes are you referring  
17 to, Mr. Ward?
- 18 A. Well, I don't know. I would think he prepared the  
19 note for the purchase of the property.
- 20 MR. COLE: For the initial purchase?
- 21 A. I would think that he --
- 22 MR. COLE: The note that I previously



1 showed you, the Promissory -- Non-Recourse Promissory  
2 Note?

3 A. Yes. And I purchased -- I made a couple of personal  
4 loans at Madison while I was there and he prepared the  
5 notes.

6 Q. (BY MR. GIUFFRA) Okay. Mr. Ward, let's try one more  
7 entry, this is the -- two more to go. This one and  
8 another one. This is on May 1, 1986, Mrs. Clinton bills  
9 two hours, and it says, "Conference with Seth Ward;  
10 teleconference with Seth Ward regarding option; telephone  
11 conference with Mike Schauffler; and then prepare option."  
12 And Schauffler is spelled S-c-h-a-u-f-f-l-e-r. Do you  
13 recall any of this legal services being provided to you or  
14 to Madison Financial by Mrs. Clinton?

15 A. I do not. I'm not saying it didn't, but I do not  
16 recall.

17 Q. The date of the option is May 1st, which is the same  
18 day --

19 A. Mike Schauffler was my accountant at that time.

20 Q. Do you recall discussing the option with Mr.  
21 Schauffler?

22 A. I do not recall discussing the option with Mike

1 Schauffler.

2 Q. You don't recall discussing the option with Mrs.  
3 Clinton?

4 A. I do not recall.

5 Q. But the option was dated the same date as this  
6 billing entry?

7 A. I don't recall.

8 Q. Okay. Let's look at --

9 A. I'm not --

10 Q. It could have, but you just don't remember?

11 A. It could have happened, but I don't remember. And  
12 I'm not trying to appear uncooperative with you.

13 Q. I understand. The last one is June 10, 1986, a  
14 little bit under a half hour, Mrs. Clinton bills to the  
15 general matter of Madison Guaranty, it says, "Telephone  
16 conference with R. Massey; conference with S. Ward."

17 MR. COLE: What's the Bates number on that  
18 document?

19 MR. GIUFFRA: That's 29032.

20 Q. (BY MR. GIUFFRA) Again, you don't recall that  
21 conversation?

22 A. No.

1 Q. Now, we've identified 15 instances in these billing  
2 records where you had either a conference -- at least  
3 according to the billing records, a conference or a  
4 telephone call with Hillary Rodham Clinton. You don't  
5 recall any of those conferences or telephone calls?

6 A. I do not recall any of them.

7 Q. And do you think that if they had occurred you would  
8 recall them? Given that it's -- you know, 15 is not a  
9 small number.

10 A. Well, time and my physical condition certainly hasn't  
11 enhanced my memory. I'd like to think that my memory is  
12 better than it is.

13 MR. COLE: But, to be fair, Mr. -- to you,  
14 Mr. Ward, these were a few telephone calls and meetings  
15 that took place 10 and 11 years ago over a period of  
16 several months.

17 A. I do not recall. I'm sorry.

18 MR. COLE: And just as when we previously  
19 showed you a note that Mrs. Clinton had written that said,  
20 "Rick, I visited with Seth Ward and gave him a copy of  
21 your memorandum," you didn't recall that, even though this  
22 document indicates that you had a meeting?

1 A. No. I did tell you that I got a -- I remember  
2 getting a handwritten note from Hillary saying that they  
3 -- that they could go ahead with the beer joint, if that's  
4 what you want to call it.

5 Q. (BY MR. GIUFFRA) Do you recall that back in 1985 or  
6 '86 or do you recall that after being shown it --

7 A. I recall being shown it here.

8 Q. -- the last few years?

9 A. Well, they showed it to me at the grand jury.

10 MR. COLE: I'm sorry. I want to be sure  
11 I'm understanding you. Are you saying that you remember  
12 that happening?

13 A. No, I do not remember that happening. I saw the  
14 note, and it was addressed to me, handwritten. But I do  
15 not remember it at all. But I also said I must have  
16 received it because it was addressed to me.

17 And by that memorandum you showed earlier to McDougal  
18 to Jim Tucker, I apparently had given it to -- passed it  
19 on to McDougal.

20 MR. COLE: Let me ask you this. During  
21 the time you were employed at Madison and working with Mr.  
22 McDougal, were you -- did you have any role in the work

1 that was done by outside law firms for Madison Guaranty?

2 A. No.

3 MR. COLE: So it was not part of your  
4 normal responsibility to deal with lawyers?

5 A. None of my activity at all. I had no -- I didn't  
6 have any -- any reason to be involved in any -- such  
7 activity.

8 MR. COLE: Do you recall whether you ever  
9 received questions about matters like the location of  
10 properties or aspects of the transaction at IDC from  
11 outside lawyers?

12 A. No.

13 MR. COLE: You just don't recall any  
14 recollection?

15 A. No.

16 MR. GIUFFRA: Maybe now is a good time to  
17 take a break.

18 MR. COLE: Yeah, I think so.

19 (A recess was had.)

20 Q. (BY MR. GIUFFRA) Mr. Ward, do you recall whether  
21 anyone -- any lawyer represented you in connection with  
22 the various transactions surrounding IDC/Castle Grande?

---

1 A. No.

2 Q. You don't think you had legal counsel?

3 A. No, I didn't need it.

4 Q. Do you think that you may have relied on the same  
5 lawyers that worked for Madison Guaranty, if you relied on  
6 lawyers at all?

7 A. I don't think I relied on lawyers at all.

8 Q. And you don't think that Mrs. Clinton performed any  
9 legal services for you?

10 A. She may have, but not that I can recall.

11 Q. Now, Mrs. Clinton was the attorney for the Little  
12 Rock Airport Commission?

13 A. Yes, sir.

14 Q. How frequently would you meet with Mrs. Clinton in  
15 connection with the Little Rock Airport Commission?

16 A. Once a month.

17 MR. GIUFFRA: Can we go off the record.

18 (Off-the-record.)

19 Q. (BY MR. GIUFFRA) Let me show you a document, which  
20 bears Bates number SEN 32695 through 97. It's a letter  
21 from Seth Ward to Jim McDougal, dated September 24, 1985.  
22 Is it your best recollection that you drafted this

- 1 document?
- 2 A. Yes. That was part of the agreement, the verbal
- 3 agreement we had made.
- 4 Q. But you think that you were the one that actually
- 5 drafted this on a legal pad?
- 6 A. Which one are you talking about?
- 7 Q. The September 24, 1985 letter. You think you were
- 8 the draftsman of this letter?
- 9 A. I know I was.
- 10 Q. Why do you know you drafted this letter?
- 11 A. Because I wrote it out in longhand.
- 12 Q. There's a legal description contained on page SEN
- 13 32697. Do you think you would have drafted this legal
- 14 description?
- 15 A. No.
- 16 Q. It was copied out of another document?
- 17 A. It must have been.
- 18 Q. In the course of your work as a businessman, prior to
- 19 coming to Madison Guaranty, did you draft legal agreements
- 20 on occasion?
- 21 A. Well, as a businessman, I might have.
- 22 Q. You've reviewed legal agreements on a number of

- 1 occasions?
- 2 A. Yes.
- 3 Q. Mr. Hubbell did not help you prepare this document
- 4 dated September 24, 1985?
- 5 A. I wrote it out myself.
- 6 Q. And he did not review it?
- 7 A. No. I told you earlier he wouldn't help me on it.
- 8 Q. Because he said that the Rose Law Firm was
- 9 representing Madison?
- 10 A. That's right.
- 11 Q. Did he say anything more to you about what kind of
- 12 legal services the Rose Law Firm was providing to Madison?
- 13 A. No.
- 14 Q. Have you ever discussed this September 24, 1985
- 15 agreement with Mr. Hubbell?
- 16 A. I don't think I did.
- 17 Q. Since then, in the last three or four years, have you
- 18 ever discussed it with him?
- 19 A. I don't recall.
- 20 Q. And you don't believe that Mrs. Clinton drafted the
- 21 September 24, '85 letter?
- 22 A. No, I don't think so.



- 1 Q. Do you think she ever reviewed it?  
2 A. This?  
3 Q. Yes, the September 24, 1985 letter.  
4 A. I don't think she did.  
5 Q. Okay. But you can't be sure one way or the other?  
6 A. If I was shooting craps -- of course, I don't know  
7 why she would have seen it.  
8 Q. Now, with regard to the investment limitation that  
9 applied to Madison Guaranty, that 6 percent direct  
10 investment rule.  
11 A. What about it?  
12 Q. When was the first time you learned of the existence  
13 of this 6 percent limitation on how much Madison Guaranty  
14 could invest in Madison Financial?  
15 A. When I was listening to the Senate hearings.  
16 Q. So you don't recall ever hearing about it during  
17 1985?  
18 A. Absolutely not.  
19 Q. At Madison Guaranty when you and Mr. McDougal  
20 discussed the entire property that you purchased from IDC,  
21 was it referred to as IDC or Castle Grande?  
22 A. It was referred to as IDC.

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- 1 Q. Now, with regard to the Rose Law Firm billing records  
2 that I showed you previously that were found at the White  
3 House, do you have any reason to doubt the accuracy of  
4 those records?  
5 A. I have no reason to doubt it.  
6 Q. You just don't recall any of the meetings or  
7 telephone calls that are specified in those?  
8 A. I don't recall the conversation.  
9 Q. Now, you recall the May 1 Option Agreement that was  
10 involving Holman Acres allowing Madison to purchase Holman  
11 Acres?  
12 A. Yeah, we discussed it a minute ago.  
13 Q. Yes. Was that an important piece of evidence at the  
14 trial of the "Ward versus Madison" case?  
15 A. I can't honestly tell you if it was or not. I don't  
16 know.  
17 MR. COLE: Did you view that Option  
18 Agreement as having anything to do with the commissions  
19 that you felt you were owed by Madison?  
20 A. No. They paid me \$1,000 for that option.  
21 MR. COLE: They wanted to buy the  
22 property. So they paid you \$1,000 for an option on it?

1 A. That's right.

2 Q. (BY MR. GIUFFRA) Do you recall Mr. Latham testifying  
3 at the trial in "Ward versus Madison" that Madison was  
4 going to pay you your commissions by exercising the option  
5 and purchasing Holman Acres for \$400,000?

6 A. Yeah, I recall that.

7 Q. That's not your understanding of what happened?

8 A. No, it wasn't.

9 Q. And again, why do you think Mr. Latham's testimony is  
10 wrong?

11 A. Because that's not the way it was.

12 Q. And why was this not the way it was?

13 A. I guess because they were trying to win their trial.

14 MR. COLE: And who did the jury find for?

15 A. They found for me.

16 Q. Did Mr. Hubbell have anything to do with the case of  
17 "Ward versus Madison?"

18 A. No.

19 Q. Did he attend the trial?

20 A. He came up there when the trial was over at 5 o'clock  
21 to see how it was coming along as my son-in-law. He  
22 wasn't participating. He just dropped by to see how it

1 was going.

2 Q. Did he review any legal documents?

3 A. No, he did not review any legal documents.

4 Q. Since the discovery of the billing records at the  
5 White House, do you recall reading about that in the  
6 newspaper?

7 A. Yeah, I read about it in the newspaper, television,  
8 Senate Hearings.

9 Q. Did you meet with Alston Jennings and Mr. Kendall to  
10 discuss those billing records in January of this year?

11 A. I met with them.

12 Q. Where did the meeting take place?

13 A. In Alston's office.

14 Q. And about how long was the meeting with Mr. Kendall?

15 A. I don't know. I'd say 30 or 40 minutes.

16 Q. And what do you recall telling Mr. Kendall?

17 A. I recall telling him just about the same thing I told  
18 you. That I had already seen the record. They were shown  
19 to me by Mr. Starr's investigator either that morning or  
20 the day before. And that I would have to tell him the  
21 same thing that I told Mr. Starr's investigator, that I  
22 didn't recall seeing it. I couldn't recall any of it.

1 Q. Did Mr. Kendall show you Mrs. Clinton's billing  
2 records?

3 A. He started to. Maybe he did. But I told him I had  
4 already seen them.

5 Q. Do you know a man named David Hale?

6 A. No. I know who he is. He's been in the newspaper  
7 enough.

8 Q. Did Mr. McDougal ever discuss David Hale in your  
9 presence while you worked at Madison Guaranty?

10 A. Never.

11 Q. Do you know whether Governor Clinton ever visited Mr.  
12 McDougal's office?

13 A. If he did, I didn't see it.

14 Q. Do you recall writing a letter or letters to Senators  
15 Bumpers and Pryor?

16 A. I sure do.

17 Q. And what do you recall about letters you wrote to  
18 Senators Bumpers and Pryor?

19 A. I was complaining about what I thought was the sad  
20 treatment I'd gotten from the RTC.

21 Q. And did Senator Bumpers or Senator Pryor take any  
22 action in response to your letter?

1 A. Yes, they sent the letter to the RTC's office in  
2 Kansas City. And I think a fellow by the name of Knight  
3 replied saying that I was the main cause of Madison's  
4 failure. And --

5 (Interruption.)

6 Q. Let's go off the record for a second.

7 (Off-the-record.)

8 Q. Do you want to finish answering the last question  
9 before we had an interruption?

10 A. Yes, sir. Mr. Knight replied to the Senators that I  
11 was the cause of Madison's failure, or at least a major  
12 contributor to it. But then he released a letter to the  
13 press, and two days later "The Wall Street Journal" called  
14 me up and wrote a big article on it. Which, in my  
15 opinion, not only was not so, but I thought it was -- I've  
16 held Mr. Knight in an extremely low opinion ever since.

17 Q. You don't feel he treated you very fairly?

18 A. No.

19 Q. Did you ever discuss the fact that you had sent  
20 letters to Senators Pryor and Bumpers with Webb Hubbell?

21 A. I don't recall.

22 Q. Did you send copies of the letters to Mr. Hubbell?



1 A. No.

2 Q. Did Mr. Hubbell ever discuss with you that the Rose  
3 Law Firm was representing the RTC in connection with its  
4 suit against Frost & Company, an accounting firm here in  
5 Little Rock?

6 A. He didn't discuss it with me.

7 MR. GIUFFRA: Let's go off the record for  
8 a second.

9 (Off-the-record.)

10 Q. (BY MR. GIUFFRA) Back in 1985 and 1986, do you  
11 recall speaking with any lawyers about water issues in the  
12 project?

13 A. No, sir.

14 Q. Do you recall discussions with anyone concerning the  
15 delivery of water services off-site, off the IDC property?

16 A. Well, there was a small housing project immediately  
17 south of the IDC property facing Highway 65. And it was  
18 supplied water by the IDC property.

19 Q. Do you recall discussing the supply of water to that  
20 property south of the IDC property with anyone?

21 A. I don't recall it.

22 Q. Do you recall discussing that with any lawyers?

---

1 A. Not with any lawyers.

2 Q. You're fairly certain you didn't discuss the delivery  
3 of any water south of the IDC project with any lawyers?

4 A. I don't recall.

5 Q. When you worked at Madison Guaranty in 1985 and 1986,  
6 were you someone who usually was responsible for dealing  
7 with lawyers on legal issues?

8 A. No. I wasn't involved with lawyers.

9 Q. You were primarily involved with trying to structure  
10 transactions with other businessmen?

11 A. I was trying to find property for him to buy.

12 Q. So you were driving around in your car looking for  
13 property?

14 A. That's right. That was on a part-time basis.

15 Q. About how many hours a week would you generally work  
16 for Madison back in '85 and '86?

17 A. Well, I'd say, in '85, I might have been averaging  
18 maybe three or four hours a week. In '86, I'd say I was  
19 averaging quite a bit more.

20 Q. Would you say maybe 10 or 15 hours a week?

21 A. I don't know, but I imagine certainly that much.

22 Q. Who was the person at Madison Guaranty, as best you



1 can recall, who dealt primarily with lawyers?

2 A. I can't answer that. I told you earlier on that they  
3 had a lawyer on the Board of Directors named Steve  
4 Cuffman. He was down there a lot. And I thought he was  
5 their lawyer.

6 Q. Have you ever spoken with anyone at the White House  
7 about the IDC/Castle Grande transactions?

8 A. No.

9 Q. You've never spoken to Bruce Lindsey about those  
10 transactions?

11 A. No.

12 Q. Did you ever speak to anyone during the 1992 Clinton  
13 campaign about those transactions?

14 A. No.

15 Q. Have you discussed since -- since January 1, 1992,  
16 have you discussed the IDC/Castle Grande project with Webb  
17 Hubbell?

18 A. No.

19 MR. GIUFFRA: Let's go off the record one  
20 more time.

21 (Off-the-record.)

22 Q. (BY MR. GIUFFRA) Mr. Ward, during the course of

1 preparing the agreement providing for the sale of the IDC  
2 property to Madison and yourself, do you remember any  
3 discussion of an assignment clause that would allow  
4 Madison Financial to assign part of its rights in the  
5 property to you?

6 A. I don't recall.

7 Q. You don't recall any discussion about the need to add  
8 an assignment clause that would allow Madison Financial to  
9 assign its rights in the property to you during the course  
10 of the drafting process?

11 A. I don't recall.

12 MR. GIUFFRA: Let's go off the record.

13 (Off-the-record.)

14 Q. (BY MR. GIUFFRA) Mr. Ward, do you recall back in  
15 1986 when federal bank examiners came into Madison to do  
16 an examination?

17 A. I do.

18 Q. What do you recall about that process or that  
19 examination?

20 A. Well, it's hard to recall anything, because I  
21 remember they took over McDougal's office. And if you  
22 were to say hello to them they wouldn't answer you. They

1 spent an awful lot of time researching. And if they had  
2 just asked any of the people that were around, they could  
3 have found out what they were looking for a lot sooner, a  
4 lot easier. But apparently they didn't want to talk to  
5 anybody.

6 Q. So the bank examiners never spoke to you?

7 A. No. They didn't speak to anybody.

8 MR. COLE: Would you have spoken to them  
9 if they had asked to speak to you?

10 A. I would have been polite.

11 Q. (BY MR. GIUFFRA) Did Mr. McDougal or Mr. Latham  
12 indicate to you in any way that they were concerned about  
13 the bank examiners conducting an examination of Madison  
14 back in 1986?

15 A. No.

16 Q. Did you have any understanding that they were not  
17 being cooperative with the bank examiners?

18 A. I had no earthly way of knowing.

19 Q. Did they ever discuss with you how the examination  
20 was coming along?

21 A. No.

22 Q. Just one final bit of questions. With regard to the

1 Holman Acres parcel, it's your testimony this was  
2 additional compensation to you above the commissions that  
3 you were owed; is that right?

4 A. No, that's not my testimony.

5 Q. What is your testimony?

6 A. I said I excluded the property from our agreement.

7 Q. So you excluded it from the parcel that you had  
8 optioned back?

9 A. I excluded it from my agreement, because it had too  
10 much of a potential for a shopping center area.

11 Q. And so the property that you purchased for \$1.15  
12 million --

13 A. Included that.

14 Q. -- included that. But the Option Agreement that you  
15 gave to Madison, you purposefully excluded Holman Acres,  
16 because you thought it had a lot of potential?

17 A. I wanted to develop it myself.

18 Q. So the litigation in the "Ward versus Madison" case  
19 concerned whether the 22.5 Holman Acres parcel represented  
20 your commissions or whether you were owed the money in  
21 addition to the 22.5 acres?

22 A. They wanted -- when they loaned me actually \$400,000

1 reduced back to \$300,000, that was collateralized by  
2 Holman Acres. And when McDougal -- when I saw that the  
3 road wasn't coming through, and I saw that McDougal wasn't  
4 going to build the houses they had talked about building,  
5 I sent them back the deed and they accepted it, which  
6 offset the note of \$300,000. The note originally was for  
7 \$400,000, I told you. So that meant, in effect, they  
8 bought my property for \$300,000. But they still owed me  
9 my commissions.

10 Q. Mr. Ward, did you ever put up any money in connection  
11 with the IDC transaction that you were involved with?

12 A. No. I offered to.

13 Q. Did you ever assume any risk in connection with those  
14 transactions?

15 A. No, but I offered to.

16 Q. You made the offer to Mr. McDougal?

17 A. Sure. I told him I would arrange my own financing.

18 Q. And he said you didn't need to?

19 A. Didn't need to. That they would do it. As a matter  
20 of fact, it was such a good deal, they could do it on a  
21 non-recourse note.

22 Q. What risk did you assume in connection with the IDC

1 transactions in which you were a party?

2 A. I don't think that I was -- got involved in this  
3 business that had too much risk.

4 Q. So you, in fact, didn't bear any risk; isn't that  
5 right?

6 A. Well, in effect, that's what it amounted to. But  
7 that's not the way I had planned it.

8 Q. But you were offered a transaction that was basically  
9 risk free to you by Mr. McDougal?

10 A. Yeah, and I took that. And you would have too.

11 Q. And you also earned almost \$400,000 in commissions,  
12 correct?

13 A. No.

14 Q. The answer would be yes?

15 A. I said no.

16 Q. You did not get the \$400,000?

17 A. I earned it, but I never got it until I went to  
18 court.

19 Q. And you also received the option payment for \$35,000,  
20 right?

21 A. That's right. And that should answer your question a  
22 whole lot right there. The property was mine. The fact



1 that they wanted to finance it was all right with me. But  
2 for them to sell my property, I charged them \$35,000 for  
3 that option to sell my property. But then it wasn't  
4 exclusive. I could sell it first or they could sell it.

5 Q. But since they were financing the purchase by you at  
6 100 percent, why do you think they needed you to be the  
7 person who owned the property?

8 A. Why did they think what?

9 Q. Why did they need you to be the person who owned the  
10 property if they were going to finance it at 100 percent?

11 A. I'm not sure I'm understanding your question.

12 Q. Okay. Madison Financial financed the property, your  
13 acquisition of this property 100 percent, right?

14 A. Yes.

15 Q. Why did they have you in there as a purchaser of the  
16 north part of the property if they were financing it at  
17 100 percent?

18 A. I do not know.

19 Q. Did you ever ask yourself that question back in 1985?

20 A. No. The only thing I can say is what I told you  
21 before. I was going to buy the property myself, all of  
22 it. And I ran it by Jim McDougal, because I was drawing

1 \$25,000 a year salary. He said, "Well, at that price,  
2 maybe you would share it with us."

3 Q. You testified originally that you did not have to --  
4 that you felt because you were being paid by Madison, that  
5 Madison had a right to the entire IDC property because you  
6 were their --

7 A. No, I didn't testify to that.

8 Q. Do you think you could have just taken the whole  
9 property yourself and not given Madison an opportunity to  
10 buy it?

11 A. Yes, I could. But I felt honor-bound to at least  
12 notify McDougal, because I was drawing \$25,000 a year from  
13 him. He had already turned it down.

14 Q. Now, in order to earn the \$35,000 option payment,  
15 what did you do to earn that payment?

16 A. I gave him an option to sell my property.

17 Q. But you were giving him an option to buy the property  
18 from you, but the purchase of the property by you was 100  
19 percent financed by Madison?

20 A. He's the one that arranged the financing. I didn't.  
21 I want that clear. I charged him \$35,000 if he wanted to  
22 sell any of my property. That was the option.



- 1 Q. And it's your testimony that no one ever indicated to  
2 you that they needed to structure the transaction with you  
3 buying the north portion of the IDC property and Madison  
4 buying the south portion in order to evade any kind of  
5 banking regulations?
- 6 A. I didn't know of any such banking regulations.
- 7 Q. No one ever raised the question?
- 8 A. Nobody ever mentioned it.
- 9 Q. You basically thought this was a good deal and Mr.  
10 McDougal made it a better deal for you?
- 11 A. I thought it was a good deal. He didn't make it any  
12 better.
- 13 Q. By offering you the non-recourse 100 percent  
14 financing?
- 15 A. Well, I wouldn't turn down the non-recourse note.  
16 I'd be foolish if I turned it down. But I would have  
17 bought the property with or without his financing. He's  
18 the one that volunteered the financing when I told him  
19 what I was getting ready to do.
- 20 Q. Because the loan was non-recourse, you had no reason  
21 or incentive to pay the loan unless you could make money  
22 on the sale of the property, right?
- 

- 1 A. Well, it was non-recourse, but the property was worth  
2 -- certainly worth the collateral.
- 3 Q. Now, did you have the financial wherewithal back in  
4 1985 to purchase the entire property yourself?
- 5 A. Yes.
- 6 Q. Did you go to any banks to try to find out whether  
7 you could get a loan for the full purchase price of the  
8 entire thing, which would have been about \$1.7 million?
- 9 A. No, it was \$1.7 million.
- 10 Q. I know, \$1.7 million. Did you ever try to see  
11 whether you could get a loan for \$1.7 million?
- 12 A. I knew I could.
- 13 Q. From another bank?
- 14 A. Yes.
- 15 Q. Did you speak to any other banks about getting a loan  
16 for \$1.7?
- 17 A. Yeah.
- 18 Q. Which banks did you speak to?
- 19 A. I don't know that this is germane, but I'll answer  
20 your question. Union Bank.
- 21 Q. And they were willing to give you a loan?
- 22 A. Why sure. I had good credit with them. I would have

1 had no trouble financing a million or two million.

2 Q. Did you go to Madison because they offered better  
3 terms than --

4 A. No, I didn't go to Madison because they offered me  
5 better terms. I told you why I went to Madison.

6 Q. Were the terms identical that were being offered by  
7 both banks?

8 A. No, they weren't identical.

9 Q. Which terms were better?

10 A. I went to Madison because, as I told you, I was going  
11 to buy it all myself, but I wanted to run it by McDougal.  
12 And I'll reiterate what I told you previously. When I  
13 told him, he said, "Well, at that price, maybe we could  
14 share it." And I asked him what he had in mind. And he  
15 told me. He wanted the property south of 145th. And I  
16 told him, I said, "I'll arrange my own financing." He  
17 said, "That won't be necessary. Madison Guaranty will  
18 finance it for you." And then he said, "Because it's such  
19 a good deal we can make it to you non-recourse." That's  
20 what I've said. I've repeated this to you any number of  
21 times.

22 MR. COLE: One thing you haven't been

---

1 asked, I think, Mr. Ward, is when Mr. McDougal offered to  
2 finance the property for you at Madison Guaranty, you  
3 would have paid Madison Guaranty under the terms of your  
4 note interest on that loan, correct?

5 A. Why certainly.

6 MR. COLE: So they would have made money  
7 on the loan that they made to you?

8 A. Why certainly. It's right there on the note.

9 MR. COLE: In fact, the note calls for  
10 some \$143,356.17 of finance charges to be paid?

11 A. I was looking for the interest rate. (Witness  
12 viewing document.)

13 MR. COLE: I believe the interest rate is  
14 right there. If you can read that. It's upside down. I  
15 can't read it.

16 A. I only have one eye.

17 MR. COLE: I believe it says, "12.5  
18 percent," does it not?

19 A. I think it does.

20 MR. COLE: So, on a million one loan, you  
21 would have paid 12.5 percent annual rate interest under  
22 this loan agreement you had with Madison Guaranty?

- 1 A. That's right, sir.
- 2 Q. (BY MR. GIUFFRA) And was the other bank offering you
- 3 the same rate interest or a higher interest rate?
- 4 A. I don't recall.
- 5 Q. What was the name of the other bank again?
- 6 A. Union.
- 7 Q. Now, when you settled the "Ward versus Madison" case
- 8 with the RTC, you obtained a release from further
- 9 liability for anything you might have done in connection
- 10 with the IDC transaction; is that right?
- 11 A. That's correct.
- 12 Q. Was that an important part of the Settlement
- 13 Agreement for you?
- 14 A. Well, no. When I paid them \$330,000, I want to be
- 15 sure they're not going to come to me for anymore. And
- 16 they wanted to be sure I wasn't going to come to them for
- 17 anymore. So that was it.
- 18 Q. Have you spoken to anyone from the Rose Law Firm
- 19 since 1992 about the fact that the RTC is examining
- 20 whether to bring a lawsuit against the Rose Law Firm for
- 21 its involvement with the IDC transaction?
- 22 A. No. I didn't know they were.

120

- 1 MR. GIUFFRA: I don't have any further
- 2 questions. Thank you very much for your cooperation, sir.

3 EXAMINATION

- 4 BY MR. COLE:
- 5 Q. I just have a very few follow-up questions, Mr. Ward.
- 6 And they go to some of the questions Mr. Giuffra was
- 7 asking you a few moments ago about the financing and the
- 8 terms of this original purchase of the IDC property. You
- 9 testified to this previously. What was the original
- 10 asking price for that property?
- 11 A. \$3 1/2 million.
- 12 Q. And by the time you finished negotiating with IDC
- 13 what was the final price?
- 14 A. \$1.7.
- 15 Q. Was it worth that?
- 16 A. Yes, it was worth it. It was worth \$3 1/2.
- 17 Q. And I believe you've also testified that you were
- 18 prepared to buy all of it yourself if Madison Guaranty had
- 19 not chosen to buy it?
- 20 A. That's correct.
- 21 Q. And the reason that you offered it to Madison
- 22 Guaranty was because you had been working for them to find



1 property at the time you first began to talk with IDC?

2 A. That's correct. I felt honor-bound to do it.

3 Q. And Mr. Giuffra also asked you some questions about  
4 your role in this transaction and the \$35,000 option  
5 payment that Madison Guaranty paid to you. What did  
6 Madison Guaranty get in return for that option?

7 A. They had the right for 270 days to sell my portion of  
8 the property, excluding the Holman Acres.

9 Q. And if they sold portions of that property, excluding  
10 Holman Acres, who would get the profit under that option?

11 A. Madison.

12 Q. Madison would get the profit?

13 A. Yes.

14 Q. And do you recall what the total amount of the sales  
15 that Madison made on that was?

16 A. No, I don't.

17 Q. Let me show you a document that may refresh your  
18 recollection. It's numbered SEN 33176. It's a  
19 handwritten schedule of sales. Take a moment to look at  
20 that.

21 A. (Witness viewing document.) I see.

22 Q. Do you see the total of these sales of properties

1 that's shown at the bottom, which is, in round numbers,  
2 \$3.7 million?

3 A. Yes, sir.

4 Q. Is that consistent with your recollection of the  
5 amount of the properties that Madison sold from this IDC  
6 transaction under their agreement with you?

7 A. At least as much.

8 Q. And I take it, sir, if you take that \$3.7 million in  
9 total sales and subtract the sales price of \$1.75 million,  
10 you're left with roughly \$2 million in profit; is that  
11 correct?

12 A. Yes, sir.

13 Q. And under your agreement with Madison, that's profit  
14 that Madison and Mr. McDougal was able to obtain, that had  
15 they not purchased the option from you and had you sold  
16 the property you would have had that profit; is that  
17 correct?

18 A. That's correct.

19 Q. And finally, the transactions that are listed there,  
20 and there are about a dozen of them including Fulbright,  
21 Jim Guy Tucker, Davis Fitzhugh, who negotiated those  
22 sales? Who arranged those sales of the property?



1 A. As far as I know, McDougal did.

2 Q. Did you have anything to do with that?

3 A. No, sir.

4 Q. And did you have anything to do with setting the  
5 sales prices of those parcels?

6 A. No, sir. I did not.

7 Q. Did you have anything to do with setting the terms of  
8 the financing that Mr. McDougal provided to those buyers?

9 A. I knew nothing of it whatsoever.

10 Q. And so your only role was that you felt you were  
11 entitled to a 10 percent commission on those sales?

12 A. And the principal being applied to my note.

13 Q. And that was the dispute that you had with Madison in  
14 your lawsuit at a later time, as to whether you were  
15 entitled to the --

16 A. That's correct.

17 Q. So, if I'm understanding your testimony, Mr. Ward,  
18 when you sold Madison Guaranty the option on this  
19 property, the \$35,000, you gave up the right to profits on  
20 the sales, but you retained the right to earn your  
21 commissions; is that correct?

22 A. Not entirely. The principal amount they sold it for

1 would be applied to my note and then I get 10 percent  
2 commission.

3 Q. Right. You would get 10 percent commission on the  
4 sale.

5 Did you, when you initially entered into this  
6 agreement with Mr. McDougal, Mr. Ward, did you feel you  
7 were engaging in a shame or an illegal transaction?

8 A. No, I did not. I had no reason to think that.

9 Q. And --

10 A. If I had, I wouldn't have done it.

11 Q. And there have been some reports which, including in  
12 the hearings that we've been conducting in the Senate,  
13 that this IDC property ultimately caused losses to Madison  
14 Guaranty Savings and Loan of some \$4 million. Did you  
15 play any part in the transactions that are described here  
16 that might have resulted in those loan losses?

17 A. No, sir. I did not.

18 MR. COLE: I don't think I have anything  
19 further.

20 EXAMINATION

21 BY MR. GIUFFRA:

22 Q. Just one quick set of questions. The \$2 million

1 profit that Mr. Cole referred to, that was -- you don't  
2 know whether that's a real profit that was earned by  
3 Madison Guaranty, do you?

4 A. I don't know.

5 Q. Because if Madison Guaranty sold the properties to  
6 the various purchasers at inflated prices, and then fully  
7 financed those sales, they would not be real sales of  
8 property?

9 A. I wasn't involved in the sales or the sale price or  
10 how it was transacted.

11 Q. So you don't know whether the \$2 million profit that  
12 Mr. Cole just referred to was an illusory profit?

13 A. I have no idea.

14 Q. You don't know whether that was --

15 A. Looking back from what I've read, in retrospect, I'd  
16 say that I assume the deals weren't on the up-and-up.

17 MR. GIUFFRA: No further questions, sir.  
18 Thank you very much.

19 MR. COLE: Nothing further.

20 (WHEREUPON, at 12:48 p.m., the taking of  
21 the above-entitled deposition was concluded.)

22 \* \* \* \* \*

## C E R T I F I C A T E

STATE OF ARKANSAS}

}ss.

COUNTY OF WHITE }

RE: ORAL DEPOSITION OF SETH WARD:

I, JEFF BENNETT, CCR, LS #19, a Notary Public in and for White County, Arkansas do hereby certify that the facts stated by me in the caption of the foregoing deposition are true; and that the foregoing deposition was transcribed by me, or under my supervision, on the Cimarron III Computerized Transcription System from my machine shorthand notes taken at the time and place set out on the caption hereto, the witness being first duly cautioned and sworn, or affirmed, to tell the truth, the whole truth, and nothing but the truth.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 12th day of February, 1996.

---

JEFF BENNETT, CCR, LS Certificate  
#19, Notary Public in and for White  
County, Arkansas

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